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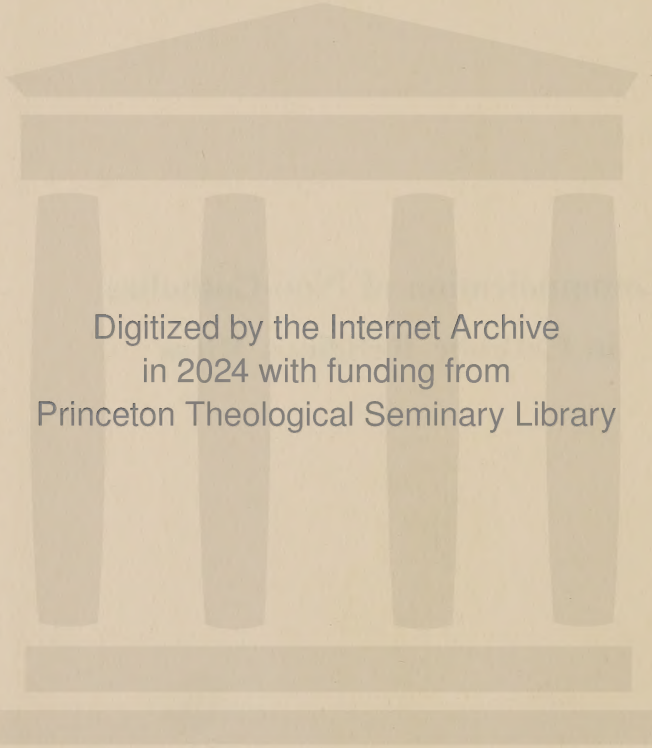








**Communication of Non-Catholics  
in Catholic Religious Rites**



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THE CATHOLIC UNIVERSITY OF AMERICA  
STUDIES IN SACRED THEOLOGY

(Second Series)

No. 98

Communication of Non-Catholics in  
Catholic Religious Rites

A DISSERTATION

*Submitted to the Faculty of the School of Sacred Theology of  
The Catholic University of America in Partial Fulfillment  
of the Requirements for the Degree of  
Doctor of Sacred Theology*

BY THE

REV. JOHN A. PRAH, O.C.D., S.T.L.



THE CATHOLIC UNIVERSITY OF AMERICA PRESS  
WASHINGTON, D. C.

1956

*Nihil Obstat:*

Eduardus Lanzilla, O.C.D., S.T.L., J.C.L.  
Gregorius Miller, O.C.D.

*Imprimi Potest:*

Albertus Bourke, O.C.D.,  
Superior Provincialis.

*Holy Hill, Wisconsin, die 5 Maii, 1956.*

*Nihil Obstat:*

Franciscus J. Connell, C.S.S.R., S.T.D.,  
Censor Deputatus.

*Washingtonii, D. C., die 16 Maii, 1956.*

*Imprimatur:*

✠ Patricius A. O'Boyle, D.D., LL.D.,  
Archiepiscopus Washingtonii.

*Washingtonii, D. C., die 18 Maii, 1956.*

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THE CATHOLIC UNIVERSITY OF AMERICA PRESS, INC.

Printed by  
THE PAULIST PRESS  
401 WEST 59TH STREET  
NEW YORK 19, N. Y.

IN MEMORY OF  
MY FATHER AND MOTHER



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## INTRODUCTION

CATHOLICS are confronted on all sides by various Christian groups, asking the members of the Catholic Church to work with them to reconstruct a better world on more equitable principles of social justice. All around us we hear the crying need for a common and unified defense against the inroads of unbelief. To Catholics these movements not only offer problems of co-operation in such affairs as peace conferences, theological discussions, etc., but also problems of communication in worship.

In a recent *Monitum* the Holy See reminded the Catholic world to observe the provisions laid down in its ecclesiastical documents with regard to co-operating with non-Catholics in the so-called "Ecumenical" congresses. Warning against *communicatio in sacris*, the Supreme Sacred Congregation of the Holy Office ended with these weighty words:

Since moreover, both in the aforesaid meetings (Ecumenical congresses) and out of them acts of mixed worship have not unfrequently been done, all are again warned that all communication in sacred things is entirely forbidden, according to Canons 1258 and 731, §2.<sup>1</sup>

No matter how noble or praiseworthy these "Ecumenical" endeavors may seem, if to participate in them would entail sacrificing principles of Catholic faith and worship, Catholics may take no part in them.

The majority of the problems with which this treatise is concerned arise from ordinary circumstances. Many non-Catholics, who are actually cut off from the Catholic Church, desire to participate in our worship. They do not understand why the Church is so exclusive in her worship. At times, even Catholics are not aware of

<sup>1</sup> Suprema Sacra Congregatio S. Officii, 5 Iunii 1948—*Acta Apostolicae Sedis*, XL (1948), 257 (hereafter cited *AAS*); also cf. *ibidem*, *Instructio ad Locorum Ordinarios*: "De Motione Ecumenica," 20 Dec. 1949—*AAS*, XXXXII (1950), 146

the restrictions which forbid, nor of the exceptions which permit, the participation of non-Catholics in our sacred rites. The purpose of this treatise is to give some guidance and norms as to how we are to deal with the problem of participation of non-Catholics in Catholic worship. The term "worship" is taken here, not merely in the sense of adoration of God, but in the sense of religious rites in general.

The writer wishes to express gratitude and appreciation to his Very Reverend Provincial, Albert Bourke, O.C.D., for the opportunity to pursue advanced studies in Sacred Theology, and to the Very Reverend Father Francis Connell, C.S.S.R., the director of this thesis, for his profitable instruction and kind direction. The writer also acknowledges his indebtedness to Reverend Father Joseph Collins, S.S., and Reverend Father Romaeus O'Brien, O.Carm., to whom the task of reading this dissertation was committed, and to all those who through their encouragement and help have made this work possible.

## CHAPTER ONE

### PRELIMINARY NOTIONS

#### ARTICLE I — COMMUNICATION IN GENERAL

To communicate is the same as to act together with another; hence communication with heretics or non-Catholics means to act or to participate in their affairs or vice versa.<sup>1</sup>

Communication with non-Catholics is divided into civil and religious communication, depending on whether the nature of things dealt with are profane or sacred. Civil communication deals with matters pertaining to civil life and restricts itself to business transactions, cohabitation, ties of mutual friendship and such like. Religious communication is concerned with matters pertaining to religion and cult.<sup>2</sup>

Some authors<sup>3</sup> place only the purely religious functions under religious communication, while services with a mixed character, being partly civil and partly religious, are listed under *communicatio in mixtis*. In practice the same principles govern participation *in mixtis* and *in sacris*. Hence, religious communication embraces not only what is directly related to religion, as rites, sacrifices and prayers, but also such mixed functions as marriages and funerals. In so far as these latter functions involve religious ceremonies, they rightly involve the problem of *communicatio in sacris*.<sup>4</sup>

<sup>1</sup> Fanfani, Ludovicus J., *Manuale Theorico-Practicum Theologiae Moralis Ad Mentem D. Thomae* (4 vols., Romae: Libreria "Ferrari," 1950), II, n. 35 (hereafter cited *Manuale Theologiae Moralis*).

<sup>2</sup> Prümmer, Dominicus M., *Manuale Theologiae Moralis Secundum Principia S. Thomae Aquinatis* (8. ed., 3 vols., Friburgi Brisgoviae: Herder & Co., 1935), I, n. 522 (hereafter cited *Manuale Theologiae Moralis*).

<sup>3</sup> Genicot, Ed., et Salsmans, Jos., *Institutiones Theologiae Moralis* (17. ed., 2 vols., Bruxellis: L'Edition Universelle, S. A., 1951), I, n. 198; Ferreres, Ioannes B., *Compendium Theologiae Moralis* (14. ed., 2 vols., Barcinone: Eugenius Subirana, 1928), I, n. 292; Regatillo, E. F., et Zalba, M., *Theologiae Moralis Summa* (3 vols., Matriti: La Editorial Catolicos, S. A., 1952), I, n. 811.

<sup>4</sup> Noldin-Schmitt-Heinzel, *Summa Theologiae Moralis* (30. ed., 3 vols., Oeniponte Lipsiae: Sumptibus Et Typis Feliciani Rauch, 1952), II, n. 34.

In the question of *Communicatio*, various synonyms as association, co-operation, participation and communication are used to express action in common. Although these words are substantially akin in meaning, there are shades of differences among them. Jones<sup>5</sup> and Ayrinhac<sup>6</sup> employ the term "association" for joint action in both civil and religious matters. But it is more in accordance with the meaning of *association* to restrict its use to profane matters.

Co-operation generically considered, signifies to concur with another or with many in performing an act.<sup>7</sup> It not only entails joint action of two or more persons, but supposes the individual participants to be at the same time distinct and yet morally connected.<sup>8</sup> Of late, *co-operation* has been frequently employed to designate collaboration in "Ecumenical" congresses, or joint action in social, economic and civil problems.<sup>9</sup> In the restricted sense of the word, *co-operation* in these affairs supposes that no religious communication is involved.

Vermeersch does not agree with others as to where in the field of religious communication the line of demarcation ought to be drawn between communication, properly so-called, and co-operation.<sup>10</sup> Cer-

<sup>5</sup> Jones, Heribert, *Moral Theology*, translated by Urban Adelman (Westminster, Md.: Newman Bookshop, 1951), n. 124.

<sup>6</sup> Ayrinhac, H. A., *Administrative Legislation in the New Code of Canon Law* (London: Longmans, Green and Co., 1930), n. 105.

<sup>7</sup> Vermeersch, Arthurus, *Theologia Moralis, Principia-Responsa-Consilia* (3 vols., Tom. I, 3. ed., Romae: Pont. Univer. Gregoriana, 1933; Tom. II, Brugis: Firme Charles Beyart, 1928; Tom. III, Brugis: Firme Charles Beyart, 1923), II, n. 154 (hereafter cited *Theologia Moralis*); Iorio, Thomas A., *Theologia Moralis* (3. ed., 3 vols., Neapoli: M. D'Auria, S. Sedis Apostolicae Typographus, 1946), I, n. 285.

<sup>8</sup> Cf. Lincoln T. Bouscaren, "Co-operation with Non-Catholics"—*Theological Studies*, III (1942), 512.

<sup>9</sup> Cf. Mausbach, Joseph, *Catholic Moral Teaching and Its Antagonists*, trans. by A. M. Buchanan (New York: Joseph Wagner, 1914), p. 54 et passim; E. J. Mahoney, "Notes on Recent Works: Moral Theology and Canon Law"—*The Clergy Review*, XXII (1942), 76; John La Farge, "Some Questions as to Interdenominational Co-operation"—*Theological Studies*, III (1942), 315-332; Francis J. Connell, "Recent Moral Theology: Co-operation with Non-Catholics"—*The American Ecclesiastical Review*, CXI (1944), 105-108 (hereafter cited *AER*).

<sup>10</sup> Cf. *infra*, p. 10.

tainly, the remote phases of communication, as building churches, supplying sacred vessels, etc., are more aptly treated under *co-operation*. Fanfani, for instance, separates these acts from *communicatio in sacris*, and classifies them under *communicatio mediata*.<sup>11</sup> Our treatise will not concern itself with problems involving co-operation in these remote or mediate matters.

Participation and communication belong to co-operation as to a common genus. In connection with religious worship, participation and communication are often used indiscriminately. Even though there is an affinity between the terms, they are not the same. Communication and participation consist in the part taken (*in parte sumpta*) in the action of another, either merely internally by intention and desire (hence, necessarily formally), or also externally. According to Vermeersch, even external communication implies a formal element of participation, while external participation is more in meaning with co-operation, and may be understood as either formal or merely material, depending upon the intention of the participant.<sup>12</sup> Bouscaren also observes this difference between the terms *communicatio* and *participatio*, especially in their Latin usage. Both terms signify participation in the same specific action, but *communicatio* connotes a formal participation, *participatio* may be either formal or material.<sup>13</sup>

## ARTICLE II — COMMUNICATION IN CATHOLIC RELIGIOUS RITES

Religious communication may refer either to participation in Catholic worship or to participation in non-Catholic worship. Fanfani calls the participation of Catholics in non-Catholic worship *communicatio activa*, and the participation of non-Catholics in Catholic worship *communicatio passiva*.<sup>14</sup> This designation is also found in the former editions of Noldin's *Summa Theologiae Moralis*, but has been omitted in the latest edition.<sup>15</sup> And rightly so, because,

<sup>11</sup> *Manuale Theologiae Moralis*, II, n. 35.

<sup>12</sup> *Theologia Moralis*, II, n. 50.

<sup>13</sup> Bouscaren, "Co-operation with Non-Catholics"—*Theological Studies*, III (1942), 512.

<sup>14</sup> *Manuale Theologiae Moralis*, II, n. 35.

<sup>15</sup> Godefridus Heinzl, who prepared the thirtieth edition, omits this terminology. Cf. *op. cit.*, II, n. 34.

Loiano observes, it confuses this terminology with the terminology of the Code.<sup>16</sup> Canon 1258 deals solely with the participation of Catholics in non-Catholic services, and it employs the terms *active assistere* in the sense of taking an active part in non-Catholic worship, and *praesentia passiva* as mere presence at non-Catholic rites.<sup>17</sup> We intend to use the terms *active* and *passive* according to the meaning of the Code also with regard to participation of non-Catholics in Catholic religious rites.

To avoid the above confusion Prümmer,<sup>18</sup> Loiano,<sup>19</sup> and Piscetta-Gennaro<sup>20</sup> call the participation of non-Catholics in Catholic worship, *communicatio negativa*, and the participation of Catholics in non-Catholic worship, *communicatio positiva*. Merkelbach<sup>21</sup> and Iorio<sup>22</sup> eliminate the terms *negativa* and *positiva*, and simply apply the terms *active* and *passive*, according to the meaning of the Code, to participation of Catholics in non-Catholic worship as well as the participation of non-Catholics in Catholic worship. In our treatise on the participation of non-Catholics in Catholic worship, or on what Prümmer calls *communicatio negativa*, we intend to use *active* and *passive* in the sense of the Code.

Religious communication is concerned with acts of public wor-

<sup>16</sup> Loiano, Seraphinus A., *Institutiones Theologiae Moralis* (4 vols., Taurini: 1935), II, p. 49, who has the following to say about Noldin's former terminology: ". . . haec distinctio videtur omnino expungenda."

<sup>17</sup> Canon 1258:

§1. Haud licitum est fidelibus quovis modo *active assistere* seu partem habere in sacris acatholicorum.

§2. Tolerari potest *praesentia passiva* seu mere materialis, civilis officii vel honoris causa, ob gravem rationem ab Episcopo in casu dubii probandam, in acatholicorum funeribus, nuptiis similibusque, sollemniis, dummodo perversionis et scandali periculum absit.

<sup>18</sup> *Manuale Theologiae Moralis*, I, n. 522.

<sup>19</sup> *Institutiones Theologiae Moralis*, II, p. 49.

<sup>20</sup> Piscetta, A., Gennaro, A., *Elementa Theologiae Moralis* (7 vols., Torino: Società Editrice Internazionale, 1941-1943), II, n. 66.

<sup>21</sup> Merkelbach, Benedictus Henricus, *Summa Theologiae Moralis ad Mentem D. Thomae et ad Normam Iuris Canonici* (3 vols., Parisiis: Typis Desclée de Brouwer et Soc., 1938-1939), I, n. 752 (hereafter cited *Summa Theologiae Moralis*).

<sup>22</sup> *Theologia Moralis*, I, n. 237.

ship.<sup>23</sup> An act of worship is primarily considered *public* when it is authorized as an official act of religious worship of that religious body. This determination makes an act public from the part of the act itself, i.e., in so far as the act of worship is sponsored by a religious group as an official act of their church, independent of any immediate modifying circumstances. Circumstances are of secondary importance. Acts thus sponsored are public, whether the number witnessing them are few or many.

Distinct from Catholic worship are both non-Catholic worship, which is sponsored by heretical or schismatical authority, and "neutral worship," which does not involve the recognition of any sect. According to an Instruction of the Holy Office: Every species of communication in public sacred rites is forbidden to Catholics at all conventions and assemblies of this kind, as has already been stated. Yet it is not discountenanced to open and close the meetings with a common recitation of the Lord's Prayer or some other prayer approved by the Catholic Church.<sup>24</sup> Referring to these words of the Holy Office, Canon Mahoney notes:

To share in worship under the aegis of heretical or schismatical grounds; the former is *communicatio in sacris* in the technical sense intended by the Holy Office, the latter is sharing in prayer in common, such as the Instructions of the Holy Office explicitly permits.<sup>25</sup>

In general, *Sacra Catholica* include any religious rite approved by the Catholic Church, whether it takes the form of words or actions, or both. *Communicatio in sacris Catholicis* is primarily concerned with the liturgical rites and ceremonies of the Catholic Church.<sup>26</sup> These rites and ceremonies make up her public worship,

<sup>23</sup> Iorio, *Theologia Moralis*, I, n. 236.

<sup>24</sup> Suprema Sacra Congregatio S. Officii, Instructio ad Locorum Ordinarios: "De Motione Oecumenica," 20 dec., 1949—*AAS*, XLII (1950), 146: Quamquam in omnibus hisce conventibus et collationibus quaelibet in sacris communicatio est devitanda, tamen non reprobatur communis recitatio Orationis Dominicae vel praecationis ab Ecclesia Catholica approbatae, qua iidem conventus aperiantur et concludantur.

<sup>25</sup> *The Clergy Review*, XXXIV (1950), 64.

<sup>26</sup> Cf. Vermeersch, *Theologia Moralis*, II, n. 51.

her sacred Liturgy, determined and regulated by her authority. Three requisites are necessary for public worship: (1) It must be offered in the name of the Catholic Church, (2) by persons authorized to perform the acts, and (3) according to acts established by her.<sup>27</sup> *Ratione finis operis* participation is not public if the act does not belong to the public worship of the Catholic Church. Hence, for a non-Catholic to participate in the recitation of Catholic prayers which do not form a part of a Catholic rite or ceremony, is not *communicatio in sacris*, properly so-called.<sup>28</sup>

For an act of worship to be public in the Catholic Church, an ordained minister must ordinarily perform the act. If a layman were to read the prayers of the Ritual over a deceased person, the act would be private, not public. Nor is every act of worship performed by a priest, the public worship of the Catholic Church, even though a large group witnesses and participates in it. For instance, a priest who recites a prayer at a civil gathering on Memorial Day performs a private function, because the prayer recited has not been authorized by the Church for such an occasion.<sup>29</sup>

On the other hand, certain acts of Catholic worship are public, even though a priest does not administer them, as in the case of a deacon who may administer, even solemnly, the sacrament of Baptism, or a layman who administers the same sacrament to a person in danger of death.<sup>30</sup> Baptism is considered a public act even when privately administered, because "it is essentially social." To which Mersch adds: "Baptism is God's act because it is the act of the whole of Catholicism, a liturgy, a public cult."<sup>31</sup>

In fine, *communicatio in sacris Catholicis* deals with the sacred rites and ceremonies instituted either by Jesus Christ or His Church,

<sup>27</sup> Canons 1256 and 1257.

<sup>28</sup> Cf. Fanfani, *Manuale Theologiae Moralis*, II, n. 38; Vermeersch, *Theologia Moralis*, II, n. 51; Genicot-Salsmans, *Institutiones Theologiae Moralis*, I, n. 198, nota 1.

<sup>29</sup> Francis J. Connell, "Communication of Non-Catholics in Sacred Rites"—*AER*, CXXI (1944), 177.

<sup>30</sup> Even a non-Catholic may validly and lawfully administer baptism *in periculo mortis*, as long as he uses the true form and has the intention of Christ.

<sup>31</sup> Mersch, Emile, *The Theology of the Mystical Body*, trans. by Cyril Vollert (St. Louis: Herder, 1951), p. 562.

as the Sacrifice of the Mass, the Sacraments, the sacramentals, solemn processions, the chanting of the canonical hours, burials, and the many consecrations and blessings contained in her liturgical books.<sup>32</sup> Actually these are the sacred things which are denied the excommunicates, and Noldin-Schmitt inform us they are also to be denied to non-Catholics.<sup>33</sup>

Besides these, there are the many popular Catholic devotions as the Rosary, the Way of the Cross, Novena services, etc., which, if they are conducted under the leadership of a priest and are made accessible to all, acquire the character of public worship. Strictly speaking, these devotions do not belong to the liturgical worship of the Church, but sanctioned and encouraged as they are by the Holy See, they are rightfully considered a part of Catholic worship.<sup>34</sup>

### ARTICLE III — PUBLIC AND PRIVATE PARTICIPATION

In addition to the determination *ex parte objecti*, religious participation may be determined *per accidens*, i.e., from the part of circumstances. This determination renders participation public or private, depending upon whether many or only a few participate, or witness the participation. Viewed in this manner, participation becomes public when non-Catholics join themselves to a large group of Catholics and share with them in the Catholic rites.

Participation, from the part of circumstances, is private if one takes part in the performance or shares in the benefits of a Catholic rite alone, or in the presence of only one or the other person. Or again, it is considered private if only a limited phase of participation is granted and the ordinary full sharing in the solemnity is withheld, for instance, by omitting the name of the deceased in the orations of a Requiem Mass, or by not publishing the name of the person for

<sup>32</sup> Cf. Ferreres, Joannes B., S.J., *Institutiones Canonicae juxta Novissimum Codicem Pii X* (2 vols., Barcinone: Eugenius Subirana, 1917), II, n. 1017; Augustine, Chas., *A Commentary on the New Code of Canon Law* (8 vols., St. Louis: Herder, 1921), VIII, p. 167.

<sup>33</sup> *Summa Theologiae Moralís*, II, n. 37 b.

<sup>34</sup> Cf. Encyclical *Mediator Dei*—AAS, XXXIX (1947), 586 (NCWC trans. n. 182).

whom the Mass is being celebrated. Several manualists<sup>35</sup> have still another view for public and private participation. They regard the conferring of sacramentals *in sacris functionibus*, i.e., during the sacred functions, as public administration. But to confer these sacramentals outside the sacred functions is private.

The Code prescinds from the public nature of the act in itself, and permits a priest "*privatim . . . applicare*" the Mass for non-Catholics.<sup>36</sup> In the question of participation in non-Catholic worship, this distinction is not given. There is no need for it. Because public non-Catholic worship is wrong in itself, one is forbidden to participate in it, irrespective of whether the participation takes place in the presence of many or few. But Catholic worship being good in itself, awaits further determination from the part of circumstances. In certain cases circumstances determine whether participation is licit or illicit. This aspect of participation is especially brought out in the application of Mass and the conferring of sacramentals upon non-Catholics.

#### ARTICLE IV — ACTIVE AND PASSIVE PARTICIPATION

The terms *active* and *passive* will be employed throughout this treatise according to the conduct and bearing a participant may have in religious services. Passive participation consists in merely being present at a sacred function and observing what is being done. It need not imply inertness or inactivity. One is said to attend passively as long as the action engaged in does not belong to the sacred function as proper to it.<sup>37</sup> McHugh and Callan hold that it is merely passive participation for non-Catholics to rise and *kneel* with the rest of the congregation at Mass.<sup>38</sup> Kenrick teaches the same for the participation of Catholics at non-Catholic services: ". . . genua flectere non videtur esse fidei negatio; intelligitur enim fieri humani-

<sup>35</sup> Cf. Vermeersch, *Theologia Moralis*, II, n. 51; Noldin-Schmitt, *Summa Theologiae Moralis*, II, n. 37; Iorio, *Theologia Moralis*, I, n. 239.

<sup>36</sup> Cf. Canons 809 and 2262, §2, 2°.

<sup>37</sup> Iorio, *Theologia Moralis*, II, n. 236.

<sup>38</sup> McHugh, John A., O.P., and Callan, Charles J., O.P., *Moral Theology, A Complete Course* (2 vols., New York: Joseph F. Wagner, Inc., 1929), I, n. 957 (hereafter cited *Moral Theology*).

tatis causa (dummodo illud aliquoties fiat).''<sup>39</sup> However, not all will agree that Catholics may kneel at non-Catholic services.<sup>40</sup> Because kneeling is an outward manifestation of belief and is intimately bound up with the profession of faith, it is disputable whether it can be condoned as passive participation in the case of Catholics participating in non-Catholic services.

Active participation consists in taking an active part in divine services. It implies external participation in an act of worship. Singing and praying with others are the more common forms of active participation. In Catholic worship, the most active or intimate form of participation is the reception of the Sacraments. Active participation may also involve either fulfilling some religious office, as a sponsor at baptism, a server at Mass, or receiving a sacred rite, as a sacramental blessing.<sup>41</sup> In the latter instance, the recipient does nothing in the performance of the rite as such. Nevertheless, he is a part of it, and his relationship to it is far more than mere presence. As a recipient of an external act performed over him, he is an active participant in Catholic worship. Hence, not only must the distinction be kept in mind between non-performance and performance, but it is equally important to remember that a non-Catholic, who by free choice *receives* a Catholic rite, becomes an active participant of Catholic worship.<sup>42</sup>

Not all moralists divide participation into active and passive; some divide it into formal and material.<sup>43</sup> According to Noldin, formal communication is that by which one internally, with his mind and will, takes part in non-Catholic cult. Material is that by which one assists at such rites only externally and bodily for a reason

<sup>39</sup> Kenrick, Franciscus, *Theologia Moralis* (2 vols., Baltimori: Apud Joannem Murphy et Socios, 1866), II. tr. XIII, n. 33.

<sup>40</sup> Cf. Bancroft, John R., C.S.S.R., *Communication in Religious Worship With Non-Catholics*, The Catholic University of America Studies in Sacred Theology, n. 75 (Washington, D. C.: The Catholic University of America Press, 1943), p. 82.

<sup>41</sup> Cf. Merkelbach, *Summa Theologiae Moralis*, I, n. 753; Fanfani, *Manuale Theologiae Moralis*, II, n. 37.

<sup>42</sup> McHugh and Callan, *Moral Theology*, I, nn. 957-958.

<sup>43</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, II, n. 34; Vermeersch, *Theologiae Moralis*, II, n. 50; Genicot-Salsmans, *Institutiones Theologiae Moralis*, I, n. 198; Prümmer, *Manuale Theologiae Moralis*, I, n. 522.

other than giving assent to the cult.<sup>44</sup> But Canon Mahoney rightly disagrees with this division because formal communication taken in this sense is practically indistinguishable from "formal heresy and schism." He adds: If everything short of this is to be called "material communication" in the same sense in which we speak of "material co-operation" in another's sin, the way is open to serious misunderstanding. For it is by no means allowed to take an *active* part in heretical rites, even though the person so acting dissociates his mind from all intention of worshiping God, and *a fortiori* from all adhesion to heresy or schism.<sup>45</sup>

Vermeersch tries to limit the precise character of formal communication. To participate in an act which does not belong to divine worship as an *essential* part of it, does not amount to formal communication. He evaluates organ-playing at our services as material co-operation. He excludes organ-playing from formal communication because it is an operation distinct from the Mass (*qui inter missam musicis instrumentis vel organum ludunt*), or an accompaniment to the singing but not a part of it (*qui organo cantum juvant*).<sup>46</sup> However, the majority of moralists oppose this interpretation and regard organ-playing as active participation.

For practical reasons we prefer the division of participation into active and passive. This is the division employed by the Code for participation by Catholics in non-Catholic worship<sup>47</sup> and adopted by the more recent moralists for communication *in sacris Catholicis* and *in sacris acatholicorum*.<sup>48</sup> It is more simple and makes for uniformity. It is less apt to cause misunderstanding.

#### ARTICLE V — NON-CATHOLICS

Non-Catholics are those whom the Church includes under the term "acatholici". The word "acatholici" is a generic term which

<sup>44</sup> *Summa Theologiae Moralis*, II, n. 34.

<sup>45</sup> Edward J. Mahoney, "A Heretic Avoid"—*The Clergy Review*, VIII (1934), 284-285.

<sup>46</sup> *Theologia Moralis*, II, n. 50.

<sup>47</sup> Cf. Can. 1258.

<sup>48</sup> Merkelbach, *Summa Theologiae Moralis*, I, n. 753; Fanfani, *Manuale Theologiae Moralis*, II, n. 37; Iorio, *Theologia Moralis*, I, n. 235 sub 2.

has made its way gradually into the legislation of the Church as a convenient way of expressing in one word what previously had taken many. In her earlier prohibitions, such specific terms as pagans, Jews, Mohammedans, apostates, heretics and schismatics were employed. Neither in the *Decretum Gratiani* nor in the Acts of the Council of Trent is there any mention of the word "acatholici". The word first appears in its juridico-moral sense in a question put before the Sacred Congregation of the Holy Office on November 29, 1764.<sup>49</sup> Since the Vatican Council, it has become a commonly accepted term. Rather than enumerate the various sects individually and distinctly, in certain instances they are simply grouped together under "acatholici". This general term appears in the documents of the Church with either a wide or a restricted meaning.<sup>50</sup>

In the wide sense, the term non-Catholic designates anyone who professes, not the Catholic faith, but some form of false religion—heretics, schismatics, infidels.<sup>51</sup> It embraces baptized as well as unbaptized persons, who profess a faith other than the Catholic faith.

Taken in the strict sense, *acatholici* refers to baptized non-Catholics, whether heretics, schismatics, apostates or those enrolled in atheistic sects.<sup>52</sup> The term, with this restricted meaning, embraces the baptized non-Catholics who are lacking either the bond of profession of faith or the bond of obedience. Such are the so-called Christians, who are separated from the Body unity of the Church, because they are "divided in faith and in government."<sup>53</sup>

The classification of non-Catholics may be viewed from another angle. At times non-Catholics are classified according to the degree of their infidelity: Oriental Schismatics, Anglicans, Lutherans,

<sup>49</sup> "An presbyteri catholici licite extra mortis periculum baptizare possint *acatholicorum* filios a patrinis catholicis oblatos, quibus tamen nulla affugeat spes illos de catholica religione imbuendi." S. C. S. Off., 20 nov. 1764—*Collectanea S. Congregationis de Propaganda Fide* (2 vols., Romae: Typographia Polyglotta S. C. de Propaganda Fide, 1907), n. 457 (hereafter cited *Coll. S. C. P. F.*).

<sup>50</sup> Cf. Leopoldus Schmid, "De Vi Verborum 'acatholicus, secta acatholica, minister acatholicus' in Iure Canonico"—*Apollinaris*, IV (1931), 552-567.

<sup>51</sup> Iorio, *Theologia Moralís*, I, n. 236.

<sup>52</sup> *Ibidem*.

<sup>53</sup> Cf. Encyclical *Mystici Corporis*—AAS, XXV (1943), 203 (NCWC trans. n. 20).

Methodists, etc., among the erring Christians; Jews, Mohammedans, Buddhists, etc., among the unbelievers. As such they are grouped into one or the other sects which profess a cult more false or superstitious than the other.<sup>54</sup>

Canon 87 of the Code declares that a human being gains personality in the Church through baptism with all the rights and duties of a Christian, unless as to the rights there is an obstacle interfering with the bond of ecclesiastical union.<sup>55</sup> Heresy and schism interfere with ecclesiastical union.

Anyone who, after baptism, while remaining nominally a Christian, pertinaciously denies or doubts any one of the truths which must be believed by divine and Catholic faith, is a heretic; if he falls away from the Christian faith entirely, he is an apostate; finally, if he rejects the authority of the Supreme Pontiff or refuses communion with the members of the Church who are subject to him, he is a schismatic.<sup>56</sup> According to Canon 2314: All apostates from the Catholic faith and all heretics and schismatics *ipso facto* incur excommunication.<sup>57</sup>

Excommunicates and non-Catholics are not co-extensive terms. Not all excommunicates are non-Catholics. Even though excommunication deprives one of the rights and privileges enjoyed by the faithful, as a juridical penalty it does not in every instance nullify membership with the Church. The Encyclical *Mystici Corporis* bears out this point:

For not every sin, however grave it may be, is such as of its own nature to sever man from the Body of the Church, as does schism or heresy or apostasy.<sup>58</sup>

<sup>54</sup> Vermeersch, *Theologia Moralis*, II, n. 56.

<sup>55</sup> Can. 87: Baptismate homo constituitur in Ecclesia Christi persona cum omnibus christianorum iuribus et officiis, nisi, ad iura quod attinet, obstet obex, ecclesiasticae communionis vinculum impediens, vel lata ab Ecclesia censura.

<sup>56</sup> Can. 1325, §2: Post receptum baptismum si quis, nomen retinens christianum, pertinaciter aliquam ex veritatibus fide divina et catholica credendis denegat aut de ea dubitat, haereticus; si a fide christiana totaliter recedit, apostata; si denique subesse renuit Summo Pontifici aut cum membris Ecclesiae ei subiectis communicare recusat, schismaticus est.

<sup>57</sup> Can. 2314, §1: Omnes a christiana fide apostatae et omnes et singuli haeretici aut schismatici:

1°. Incurrunt ipso facto excommunicationem.

<sup>58</sup> Encyclical *Mystici Corporis*, n. 23.

For certain grave crimes as, for instance, procuring an abortion, a person incurs excommunication, but he does not lose membership in the Church. The immediate effects of excommunication do not exert the same force upon all those excommunicated, for the distinction must aptly be made between those who are simply excommunicated, between those excommunicated by a condemnatory or declaratory sentence, and between those excommunicated to be avoided, the *vitandi*.<sup>59</sup>

The *vitandi* are outside the scope of this dissertation. Special legislation governs communication with them. The new Code has reduced the number of excommunicates to be avoided, but continues to oblige the faithful *per se* to avoid intercourse with them in civil affairs. This penalty is rarely inflicted today. It is the supreme degree of excommunication. It completely severs a person from the Body of the Church.<sup>60</sup>

In this treatise, besides the ordinary non-Catholics, we are also concerned with those who have gone over to schism or heresy or apostasy, and against whom a condemnatory or declaratory sentence has been passed. It is the more probable opinion that such excommunicates cease to be members of the Catholic Church. But those who are simply excommunicated for crimes less than schism or heresy or apostasy are not excluded from membership in the Church.<sup>61</sup>

Not all heretics are alike. Some have been born in heresy and have never doubted the truthfulness of the sect to which they belong. These are called material heretics, or heretics *in bona fide*. Others have doubts, but make no effort to dispel them, nor are they ready to accept the truth, even if they are convinced of it. Such are formal heretics, or heretics *in mala fide*.

Both formal and material heretics are forbidden to participate in the religious rites and ceremonies of the Catholic Church, but not

<sup>59</sup> Noldin-Heinzel, *Summa Theologiae Moralis, Complementum De Poenis Ecclesiasticis* (24. ed., Oeniponte: Typis Et Sumptibus Feliciani Rauch, 1949), n. 37.

<sup>60</sup> Cf. Hervé, J. M., *Manuale Theologiae Dogmaticae* (4 vols., Parisiis: Berche et Pagis, 1952), I, n. 453.

<sup>61</sup> Cf. Hyland, Francis E., *Excommunication, Its Nature, Historical Development and Effects*, The Catholic University Canon Law Studies, no. 49 (Washington, D. C.: The Catholic University of America Press, 1928), p. 9.

in the same manner. The Code provides a canon for the punishment of formal heresy. It is generally agreed that heretics *in mala fide* are aptly covered by Canon 2314. Precisely because they voluntarily and pertinaciously adhere to heresy, notwithstanding the clear claims of the Catholic Church, they *ipso facto* incur the penalty of excommunication specially reserved to the Holy See.<sup>62</sup>

Only heretics *in mala fide* are excommunicated by Canon 2314; heretics *in bona fide* are excluded from participating in Catholic religious rites on a different score. Material heretics are forbidden to participate in our religious services because they are *de facto* separated from the Catholic Church by their profession of heresy, even though this is done in good faith.<sup>63</sup> While the absence of contumacy and bad faith may save many born in heresy from ecclesiastical censure in the internal forum,<sup>64</sup> malice, nevertheless, is presumed in the external forum when there is an external violation of the law, until the contrary is proved.<sup>65</sup>

The status of children born in heresy must not be overlooked. A child born in heresy, but validly baptized, is a member of the Catholic Church. He loses this membership, if after he reaches the age of reason, he begins to profess heresy and partakes in non-Catholic religious services.<sup>66</sup> Only after a boy reaches his fourteenth birthday (a girl, her twelfth birthday, as some canonists hold), and professes heresy *in mala fide*, is he liable to the ecclesiastical penalty of excommunication.

Cappello reminds us that heretics, even if they seem to be in good faith and are only material heretics, must for precautionary reasons be absolved from excommunication, if they return to the Catholic faith after puberty.<sup>67</sup> Vermeersch notes that those who are in good

<sup>62</sup> Cf. Cappello, Felix M., *Summa Iuris Canonici* (3 vols., Romae: Apud Aedes Universitatis Gregorianae, 1940), III, n. 542.

<sup>63</sup> Cf. Fanfani, *Manuale Theologiae Moralis*, I, n. 340 sub B.

<sup>64</sup> Genicot-Salsmans, *Institutiones Theologiae Moralis*, II, n. 925.

<sup>65</sup> Cf. Canon 2200, §2; Woywod-Smith, *A Practical Commentary on the Code of Canon Law* (2 vols. combined in one, New York: Joseph Wagner, Inc., 1952), II, n. 2156 (hereafter cited *Practical Commentary*).

<sup>66</sup> Brunsmann-Preuss, *Fundamental Theology* (St. Louis: Herder Book Co., 1931), III, p. 249; Hervé, *Manuale Theologiae Dogmaticae*, III, n. 551.

<sup>67</sup> Cappello. Felix M., S. I., *Tractatus Canonico-Moralis De Censuris* (Romae: Maretti, 1950), n. 211 (hereafter cited *De Censuris*).

faith and belong to an heretical or schismatical sect are to be regarded *in foro externo* as tolerated excommunicates.<sup>68</sup>

Communists also enter into the problem of *communicatio*. They must be distinguished into two groups. On July 1, 1949, the Holy Office declared that those who profess the materialistic doctrine of Communism, and especially those who defend or propagate this doctrine, are *ipso facto* excommunicated as apostates, and thus may not receive the Sacraments.<sup>69</sup> Because the doctrine of Communism is based upon materialistic and atheistic principles which are false and heretical, to knowingly embrace it and follow its program is to fall under the ban of excommunication, *speciali modo*, reserved against heretics and apostates by Canon 2314.<sup>70</sup> The same Holy Office declared on August 11, 1949, that a marriage with one of these requires the regular dispensation for a mixed marriage under the usual conditions. This first group is made up of full-fledged members of the Communist party. As members of an atheistic sect, they are to be considered the same as persons who belong to a non-Catholic sect.<sup>71</sup>

The second group is made up of those who, deceived by the leaders of the Communist party and moved by a desire for social reform, favor Communism, and even vote for it, without adopting its fundamental doctrine. Those who through moral or physical fear are made to join labor unions, farmer co-operatives, etc., affiliated with the Communist party, belong to this group. They do not incur excommunication. It is left to the pastor to judge whether or not they are worthy to receive the Sacraments.<sup>72</sup> Our treatise is not concerned with this second group.

Vermeersch makes several observations regarding baptized chil-

<sup>68</sup> *Theologia Moral*, II, n. 51.

<sup>69</sup> Decretum S. C. S. Off., 1 iul. 1949—AAS, XLI (1949), 333-334.

<sup>70</sup> Cf. Fanfani, *Manuale Theologiae Moral*, I, n. 382.

<sup>71</sup> Cf. Pontificia Commissio Ad Codicis Canones Authentice Interpretandos, 30 iul. 1934—AAS, XXVI (1934), 496 (hereafter cited *Code Comm.*); also cf. Bouscaren and Ellis, *Canon Law, A Text and Commentary* (2nd Revised Edition, Milwaukee: Bruce, 1951), p. 515.

<sup>72</sup> "In Italia, nel Belgio, in Francia ecc., vi sono non pochi cattolici che, ingannati delle promesse dei capi Comunisti o mossi dal desiderio di riforme sociali, favoriscano il Comunismo, senza adottarne la dottrina fondamentale. Dunque questi ultime non incorrano scomunica."—*L'Osservatore Romano*—A. LXXXIX—Num. 172, Città Del Vaticano, 27 Luglio, 1949.

dren of non-Catholic parents. If they have not reached their fourteenth birthday, they are not to be held formally for heretics.<sup>73</sup> Nonetheless, the Holy Office refused to allow the boys of schismatic parents to serve at the celebration of the sacred mysteries.<sup>74</sup> The renowned moralist calls our attention to a decree of the Holy Office which warned that the abuse of allowing non-Catholic children, as such, to sing at our services should be removed.<sup>75</sup> But most important of all is his following remark: If it is foreseen that these children will grow up as members of a non-Catholic sect, the reverence of the sacraments requires denying the sacraments to them.<sup>76</sup>

Children converted to the Faith before the age of fourteen, need no absolution from excommunication, nor are they required to make a formal abjuration of heresy, but they must make a profession of the Catholic faith, i.e., the Creed. Those, however, who have reached their fourteenth birthday must abjure heresy or schism and be absolved from censure.<sup>77</sup>

Sinners, unlike heretics or schismatics, are not necessarily deprived of membership in the Church. As we have already noted, not every sin severs man from the Body of the Church. With regard to participation in Catholic worship, the sinner's position, provided his sin has not been directly against faith, differs from that of a heretic or a schismatic. The sinner, although he has lost baptismal innocence, retains supernatural faith. He has lost sanctifying grace and charity. As such he lacks vital membership in the Church. His membership is paralyzed, but not severed. If he holds on to his Christian faith, there is great hope.

Finally, there is one fact we may not overlook. The baptized non-Catholics have some relationship with the Mystical Body. As Mersch notes, they are not strangers to the Church. The infidels are worse off, no baptism connects them to the Church.<sup>78</sup> These points

<sup>73</sup> *Theologia Moralis*, II, n. 51.

<sup>74</sup> S. C. S. Off., 20 nov., 1850—*Coll. S. C. P. F.*, n. 1053.

<sup>75</sup> S. C. S. Off., 1 maii, 1889—*Coll. S. C. P. F.*, n. 1703.

<sup>76</sup> *Theologia Moralis*, III, n. 195.

<sup>77</sup> Vermeersch-Creusen, *Epitome Iuris Canonici*, III, n. 513 in fine.

<sup>78</sup> Mersch, Emile, *The Theology of the Mystical Body*, trans. by Cyril Volpert (St. Louis: Herder, 1951), p. XIII.

require further explanation and will be treated in the following pages.

#### ARTICLE VI — COMMUNICATION PROHIBITED TO NON-CATHOLICS

Various reasons forbid non-Catholics to participate in Catholic worship. These reasons vary either from the part of the participants or from the part of the things participated in. Some of these prohibitions are based upon the divine positive law, others upon the natural law. Thus, by reason of the divine positive law, infidels as well as heretics are excluded from the sacraments, but not under the same score. Infidels, because they do not believe, may not receive baptism, and consequently none of the other sacraments. Heretics are excluded from the sacraments, precisely because they are not members of the Catholic Church, and this not only by reason of the divine positive law, but also by reason of the divine natural law (*vitandi scandala*).<sup>79</sup> The dangers of indifferentism and scandal are so prevalent in religious communication that the divine natural law generally forbids it. Even if the sacred rites, as receiving the sacramentals, singing at religious services, and such like, do not involve any evil in themselves, it still remains with the Church, because of the dangers of indifferentism and scandal, to determine under what justifying circumstances their participation in such Catholic rites may be permitted.<sup>80</sup>

\* \* \* \*

The problems confronting the participation of non-Catholics in Catholic worship cannot be understood without considering the profound nature of the Mystical Body of Christ. These problems, and their moral evaluation, must be viewed in the light of the Church's teaching on the Mystical Body. Participation in Catholic worship is fundamentally governed by membership in the Catholic Church. The

<sup>79</sup> Cf. Ioannes B. Umberg, S. I., "Quo Iure Haereticis et Schismaticis Sacramenta Sint Deneganda"—*Periodica de Re Canonica, Morali, Liturgica*, XVIII (1929), 97-123 (hereafter cited *Periodica*).

<sup>80</sup> Ojetti, Benedictus, *Synopsis Rerum Moralium et Iuris Pontificii* (2 vols. in one, Prati: Ex Officina Libraria Giachetti, Filee et Soc., 1904), I, p. 379.

right to share in her spiritual benefits, as the right to share in the benefits of any society, depends basically upon membership.

The essential purpose of the Church, her *raison d'être*, is to gather all men into her fold and to unite them into a single society through Christ for the glory of God and the salvation of all men. The Church strives constantly to fulfill her office "of teaching all men the truth, of governing and directing them aright, of offering to God a pleasing and acceptable Sacrifice."<sup>81</sup> To her and to her alone, Christ entrusted the supreme authority to offer the august Sacrifice of the Mass, and to dispense the grace of salvation through the sacraments.<sup>82</sup> He gave the Church the exclusive right of deciding in a word all that belongs to the public worship of the new Christian economy.

#### A. Why Infidels Are Excluded

In adults faith is a prerequisite for Baptism. Only those who believe in Christ and promise to keep the commandments of the Christian religion may be baptized. By believing in Christ and submitting himself to the cleansing water of Baptism, a person fulfills the primary and fundamental condition for membership. The Acts of the Apostles record that those who received the words of Peter, that is to say, believed in his teaching, "were baptized and there were added (to the newly born Church) that day about three thousand souls."<sup>83</sup>

The baptismal character is not only a character of membership, it is also one of participation. Because of the sacramental character, imprinted upon his soul by Baptism, a Christian is made capable of receiving the other sacraments and is deputized to participate in Catholic worship.<sup>84</sup> But before a person, so deputized, can rightly participate in this sacred worship, he is obliged, and this not of his own free will nor of the will of other men, but by the

<sup>81</sup> Encycl. *Mediator Dei*, n. 19.

<sup>82</sup> Cf. Billot, Ludovicus, S. I., *De Ecclesiae Sacramentis* (in 2 tomes, Romae: Apud Aedes Universitatis Gregorianae, 1924), I, th. 16, p. 176; also Qu. 82, p. 595.

<sup>83</sup> Acts 2:41.

<sup>84</sup> St. Thomas, *Summa Theologiae*, III, q. 63, a. 6 ad 2.

Divine will, to profess the Catholic faith and submit himself to its authority.<sup>85</sup> Through the baptismal character, although in a humble degree, a Christian shares in the priesthood of Christ. It enables him to participate in the cult of Christ, which the Church offers in union with Christ to the eternal Father.

The baptismal character grants the faithful a passive power, *potentia passiva*, and an active power, *potentia activa*.<sup>86</sup> The passive power enables them to receive the other sacraments validly and to share in the common suffrages of the Catholic Church. In the sacrament of Matrimony, the sacramental character is an active power of the sacramental order; — “the contracting parties are ministers of grace to each other.”<sup>87</sup> From another point of view, and by far different from the sacramental character of Holy Orders, it entitles the faithful to take an active part, be it ever so modest, in the cult of the Church. It enables them, above all, to unite themselves as co-offerers of the Eucharistic oblation which the priest offers in the name of the Church. The Encyclical *Mediator Dei* points out this fact: “By the waters of Baptism, as by common right, the Christians are made members of the Mystical Body of Christ, the Priest and by the ‘Character’ which is imprinted on their souls, they are appointed to give worship to God.”<sup>88</sup>

Before anyone can participate in Catholic worship, or lay claim to any of its spiritual benefits, he must be baptized and a member of the Catholic Church. Of those who are refused this privilege, the infidels are worse off, because they are not baptized, they lack the fundamental right, the *ius radicale*.<sup>89</sup>

Even catechumens, no matter how fervent they may be, do not possess membership in the Catholic Church.<sup>90</sup> Their baptism of

<sup>85</sup> Cf. Billot, *De Ecclesiae Sacramentis*, I, Qu. 58, p. 270.

<sup>86</sup> St. Thomas, *loc. cit.*; also cf. Salmanticenses, *Cursus Theologicus Dogmaticus* (in 20 vols., Parisiis: Apud Victorem Palmé, 1881), Tom. XVII, De Sacramentis, Disp. 5, dub. 2.

<sup>87</sup> Encycl. *Mystici Corporis*, n. 20.

<sup>88</sup> N. 88.

<sup>89</sup> Cf. Billot, Ludovicus, S.J., *De Ecclesia Christi* (in 2 tomes, Romae: Apud Aedes Universitatis Gregorianae, 1921), I, th. X, p. 282.

<sup>90</sup> “Catechumeni, quamvis aliqui, praesertim Suarez, eos membris ecclesiae annuerunt, non sunt membra actu, sed voto tantum et veluti potentia proxima,”

desire imprints no sacramental character.<sup>91</sup> But they are in proximate preparation of becoming members of the Church. Mindful of this fact, the Church has from the beginning granted them a limited participation in her sacred liturgy.

### B. *Why Heretics and Schismatics are Excluded*

The inborn power of Baptism, its *vis nativa*, joins us to the Mystical Body of Christ. But Baptism is not the only requirement for membership. Two other conditions are required, namely, the profession of the same faith and communion with its members. These three requirements are not equal in importance. Baptism alone is the cause; it unites us to the Church. The other two requirements are rather conditions, which must be present in order that the primary effect of baptism be not frustrated. Baptism will always *ipso facto* produce this effect, provided no obstacles are placed in the way.<sup>92</sup>

Either heresy or schism undoes the incorporation of a person in the Mystical Body. The very nature of the Catholic Church demands it to be a visible society, essentially one, by unity of profession and by unity of Communion.

As therefore in the true Christian community there is only one Body, one Spirit, one Lord and one Baptism, so there can be one faith. And so if a man refuses to hear the Church, let him be considered — so the Lord commands — as a heathen and a publican. It follows that those who are divided in faith or government cannot be living in one Body such as this, and cannot be living of its one divine spirit.<sup>93</sup>

The bond of unity, which Baptism effects, is broken through the external profession of heresy or schism. It impedes membership

says G. Van Noort, *Tractatus De Ecclesia Christi* (Bussum in Hollandia: Sumptibus Societatis Editricis Anonymae Antea Pauli Brand, 1920), n. 152.

<sup>91</sup> Only the baptism of water impresses the spiritual character upon the soul, while that of desire and blood do not. Cf. Hervé, *Manuale Theologiae Dogmaticae* (4 vols., Parisiis: Apud Berche et Pagis, Editores, 1952), III, n. 575.

<sup>92</sup> Cf. Billot, *De Ecclesia Christi*, Qu. VII, p. 286; Van Noort, *De Ecclesia Christi*, n. 152.

<sup>93</sup> Encycl. *Mystici Corporis*, n. 22.

and causes the loss of all the benefits attached to this privilege. It is apparent that a heretic or schismatic remains a subject of the Church because of the indelible character of Baptism. He is, in fact, a deserter, either formally, or at least materially.<sup>94</sup>

Communion with the Catholic Church may be considered either from the part of unity with the Body, or from the part of sharing in the common goods of the Church. Communion understood in the former instance is essentially constitutive of the very nature of the Church. It indicates a unity of all the members among themselves under the visible Head, the Supreme Pontiff. It designates a certain fellowship or association of baptized persons in a visible society, professing the same faith and submitting themselves to its ruling authority. The second aspect of *Communion* in the Church flows from the first as a natural sequence, inasmuch as from the coadunation of many members in one body, there results a community of goods and the communication of these among the members.<sup>95</sup>

### 1. *The Community of the Sacraments*

Through the community of the sacraments, the good of Christ, the Head, or the *bonum capitis*, is either communicated or is communicable to all the members. The sacraments as such, are not so much the actions of God, or of Christ, as they are the actions of Christ in the Church. Through them Christ continues to live on, communicating as the Head of the Mystical Body, the grace of Redemption to all its members.

The sacraments are the main acts of the Church, by which the Church actuates the Body of Christ in the visible world. Christ, the Redeemer and Sanctifier, "acts each day to save us, in the Sacraments and in His holy Sacrifice."<sup>96</sup> For this reason they are the most important *sacra* that the Catholic Church possesses. They belong to her and to no other church, because only she and the Mystical Body of Christ are one and the same. In order to share

<sup>94</sup> Cf. Billot, *De Ecclesiae Sacramentis*, I, Qu. LXVIII, p. 271.

<sup>95</sup> Billot, *De Ecclesiae Sacramentis*, II, Qu. XXI-XXIV Supplem., *De Ex-communicatione*, p. 241.

<sup>96</sup> Encycl. *Mediator Dei*, n. 29.

in her sacraments, it is necessary to be in communion with her; for as St. Thomas says: "The sacraments by their very nature are protestations of the true faith."<sup>97</sup>

From the community of the sacraments emanates the legitimate and unimpaired right to receive the sacraments. Schismatics, who are outside the Church, have the capability (because they have received Baptism) but have not the right to receive them. The same is true with regard to dispensing the sacraments. If any Christian sect administers the sacrament of Baptism, its validity is not dependent upon the fact that it was administered as a schismatical or heretical Baptism. There is only one Baptism, whose efficacy in no way depends upon the quality of the one administering it.<sup>98</sup> Whoever administers this or any other sacrament, legitimately or illegitimately, administers them as goods belonging to the Catholic Church. If one or the other sects have the true sacraments, they have them not as their own but as *bonum alienum*, as belonging to another.<sup>99</sup> They belong only to that Church as *bonum proprium* whose faith is one and indefectible.

## 2. The Community of Suffrages

Besides the community of the sacraments, through which the solidarity of the Church is shown through participation in the same sacraments, the members are also made one through the community of suffrages, by an interchange of spiritual benefits. Through the community of suffrages, the good of one member is communicated to the others. St. Thomas mentions that among the many truths which the Apostles have taught us is the doctrine of the communion of goods in the Catholic Church:

Just as in the natural body the operation of one member contributes to the good of the whole body, so it is in the spiritual body which is the Church. And because all the faithful are one body, the good of one is communicated to the other. As is said in the Epistle to the Romans 12:5, "Everyone members of one another."<sup>100</sup>

<sup>97</sup> III, q. 65, a. 4.

<sup>98</sup> Cf. Billot, *De Ecclesia Christi*, I, th. 10, p. 287.

<sup>99</sup> Cf. Billot, *De Ecclesiae Sacramentis*, I, th. 16, p. 182.

<sup>100</sup> *Expositio in Symbolum Apostolorum*, art. 10.

The suffrages of this community have their value, not because they, the faithful, are united among themselves. This alone is not sufficient. Rather it is the combined faithful united and incorporated in Christ which gives this community the possibility of ever reaping supernatural goods. The very purpose of the Mystical Body is a social collaboration of its members under the leadership of Christ.<sup>101</sup>

Strictly speaking, only the members of the Church have a right to share in the benefits accruing from the community of suffrages. They alone have contributed toward this fund. To share in it, is a privilege which comes from common membership in the Catholic Church. But the Church does not exclude non-Catholics entirely from the common suffrages. She allows her suffrages to be applied to them, provided they are applied *privatim* as *remoto scandalo*.<sup>102</sup>

Not all suffrages offered to God are common suffrages, or suffrages of the Catholic Church. Some are private; and these are the private prayers, fastings, alms and other good works, which the faithful and the clergy offer to God in their own name. As will be shown later, non-Catholics are not deprived of private suffrages.

The participation of non-Catholics in Catholic religious rites is distinct from the participation of Catholics in non-Catholic religious services. The reasons which prohibit participation in the one are not the same for the other. Whenever Catholics participate in an heretical or a pagan cult, they render God a false cult, or at least as in the case of schismatical worship, an illegal cult.<sup>103</sup>

<sup>101</sup> Encycl. *Mystici Corporis*, n. 68; cf. also Tanquerey, *Synopsis Theologiae Dogmaticae* (24. ed., Parisiis: Typis Societatis Sancti Joannis Evangelistae Desclée et Socii, 1938), Tom. III, n. 1198.

<sup>102</sup> Canon 2262, §2; also cf. Vermeersch-Creusen, *Epitome Iuris Canonici*, III, n. 464.

<sup>103</sup> . . . *schismatical worship, an illegal cult*. If a dying Catholic ardently desires the consolation and the fortification of the last sacraments, and because no Catholic priest is available, begs for a schismatic priest, may the schismatic priest be summoned? Provided there is no danger of perversion and the dying man insists, the schismatic priest may be called to administer the last sacraments to him. Actually what he administers are not schismatical sacraments, but Catholic sacraments, which schismatics illegally possess. The sacraments which he administers are valid—sacred things, good in themselves. The sole agent of the sacraments is the Catholic Church. In this case the Catholic Church deposes the schismatic priest to administer the sacraments of the Church. But

To participate in a false cult is intrinsically evil; and hence, always forbidden. But the same is not true of the participation of non-Catholics in Catholic worship. When non-Catholics participate in Catholic worship, they take part in the sacred rites of a true cult, a cult which is intrinsically good.<sup>104</sup> This is the reason why their participation in our worship is less sinful than our participation in theirs; and hence, also less dangerous.<sup>105</sup>

Noldin-Schmitt<sup>106</sup> and Fanfani<sup>107</sup> assert that the active participation of non-Catholics in the sacred rites of Catholic worship is *per se* forbidden. It is evident that this principle is above all to be applied to the reception of the sacraments. The Church is especially concerned that her sacraments are not received by non-Catholics. They are the *bona ecclesiae*. The nature of the sacraments is such that non-Catholics must be excluded from them.

The same principle of exclusion is ordinarily applied to such modes of active participation as singing at liturgical functions, playing the organ at Mass, etc. Not all participation is of equal importance. Participation in Catholic worship varies, depending upon whether the function participated in is more sacred than others, or more proximate to the center of Catholic cult than others. At times, for justifiable reasons, the participation of non-Catholics in the less important functions is admissible. But the more proximate the function is to the center of Catholic worship, so much the greater must be the reason for participation. Thus, a graver reason is needed to allow a non-Catholic to sing at Mass, than to permit such one to play the organ during the Mass.

If their participation is not forbidden *natura rei*, it does not follow that it is *per se* permissible. Special legislation may stand in the way. The Church has the right to, and actually restricts their participation by special canonical legislation. This is especially seen with regard to the reception of the sacramentals and the application

when there is danger of perversion, it is forbidden to summon a schismatic priest. Ordinarily the dying Catholic should be induced to find peace in an act of perfect contrition.

<sup>104</sup> Fanfani, *Manuale Theologiae Moralis*, II, n. 37.

<sup>105</sup> Ferreres, *Compendium Theologiae Moralis*, I, n. 292.

<sup>106</sup> *Summa Theologiae Moralis*, II, n. 37.

<sup>107</sup> *Loc. cit.*

of suffrages to non-Catholics. She demands that certain sureties be observed in order that the canonical precepts and the natural law are not transgressed. We must not overlook the principle: *Bonum ex integra causa, malum ex quocumque defectu*. Because circumstances are liable to vitiate the act extrinsically, the natural law indirectly forbids their participation in these instances. The dangers of indifferentism and scandal which ordinarily lurk in promiscuous religious communication forbid it.

#### ARTICLE VII — INDIFFERENTISM AND SCANDAL

The active participation of non-Catholics in the sacred functions and rites of the Catholic Church is, as a rule, forbidden because it favors indifferentism and involves scandal. Noldin says it is forbidden because it implies unity and agreement of religious profession—as though Catholic and heretical worship do not differ essentially.<sup>108</sup> Through a too free religious communication the practice of faith is relaxed, and faith itself is jeopardized.

Whenever the Church grants any favors to non-Catholics, she is careful that the purity of her worship and the oneness of her faith are neither endangered nor marred. Communion of worship is a sign of oneness of belief. An indiscriminate participation in the marks and symbols of Catholic faith and unity would obliterate the distinction between membership and non-membership in the Mystical Body of Christ. The unity of our faith is not the result of the oneness of our worship; rather the reverse is true. The identity of our worship manifests we are one in faith. To offer our cult as a common ground upon which non-Catholics could meet with us, would confirm them in the error already so prevalent among them, namely, that one religion is as good as another. Those outside the true faith must be made to believe there can be no common sharing with us in worship, unless there is first unity of faith.

Any risks which are likely to weaken the faith of Catholics make religious participation indirectly forbidden. The faithful may be scandalized at the liberality of the Church, and as a result, take an attitude of lukewarmness toward their faith. As a true Mother,

<sup>108</sup> *Summa Theologiae Moralis*, II, n. 37.

she is obliged to prefer the spiritual welfare of her own children. As for non-Catholics, by being too liberal she may do them more harm than good. She would encourage them to remain in heresy. But our separated brethren must be made to recognize that the privilege to participate in Catholic worship, by right belongs only to those who profess the Catholic faith.

We need not be disturbed if the so-called "harshness" of the Church shocks some. All repressive measures cause suffering or inconvenience. Nor does it follow that such measures are cruel. The Church deems it necessary to cut off from her worship those who through obstinacy have cut themselves off from her doctrine. Through excommunication she removes them from the midst of her worship, lest the spirit of indifferentism set in, and thus lead her faithful children to spiritual ruin. If she chastises, she has in mind to remove scandal from the midst of her children.

#### ARTICLE VIII — TOLERATION

While the Church, as a general rule, forbids religious communication of Catholics with non-Catholics, there are conditions under which she tolerates it. With regard to participation in non-Catholic services, her rules are very stringent, and rightly so, because non-Catholic worship is a false worship. At the most, only passive or material presence of Catholics at non-Catholic services is tolerated, provided there are grave reasons. But for active or formal participation in non-Catholic worship, there is no exception; it is absolutely forbidden.<sup>109</sup>

Toleration in the participation of non-Catholics in the sacred rites of Catholic worship takes on a wider application; it can be extended to active as well as passive participation. This is possible because Catholic worship is something good in itself.<sup>110</sup> Toleration

<sup>109</sup> It is illicit for Catholics in any way to assist actively or to take part in the religious services of non-Catholics (c. 1258, §1). A passive or merely material presence, as a mark of civil duty or honor, for a serious reason which in case of doubt should have the approval of the Bishop may be tolerated, *tolerari potest*, at the funerals, weddings, and other such celebrations of non-Catholics, provided no danger of perversion and scandal is involved (c. 1258, §2).

<sup>110</sup> Fanfani, *Manuale Theologiae Moralis*, II, n. 37.

is a moral attitude. The idea behind it is to await the outcome of a greater good by enduring something evil, not necessarily morally evil. In certain modes of participation wherein no intrinsic evil is involved, the Church tolerates the participation of non-Catholics, provided justifiable reasons offset the unwanted or unexpected predicament. Generally, two indispensable conditions must be verified, otherwise the participation is illicit: the danger of indifferentism and the danger of scandal must be removed. Other significant circumstances, as the hope of conversions, the fewness of Catholics, etc., may be required to warrant toleration. The question of intention, or the *finis operantis*, is of great importance. The Church permits the use of the sacramentals to non-Catholics, provided they use them with reverence and not for superstitious purposes.<sup>111</sup>

Decisions of the Sacred Congregations with regard to religious participation employ such wording as *tolerari posse*, or *tolerari et permitti posse*, or *annuendum est*. *Tolerari posse* is the weakest permission. *Tolerari et permitti posse* implies that the action is still undesirable, but may be permitted. *Annuendum est* is the nearest to positive approval. None of these phrases gives unqualified approval. Nor do they mean that the situation in all instances is praiseworthy or commendable. The conditions are undesirable; the Church would rather see them otherwise.<sup>112</sup>

Tolerated participation has determined limitations. If these limitations are not observed, the action becomes illicit. Whenever the dangers are judged sufficiently remote as not to cause indifferentism or scandal, non-Catholics may be permitted to participate in some forms of Catholic worship, for example, to play the organ at church services. But the Church expects that some spiritual benefit will follow from such participation. Conversions are often wrought by allowing non-Catholics to attend Mass. Because of the hope of conversions, the Holy Office permitted schismatic children to sing at our services. A situation may arise in which it is difficult to expel a non-Catholic from participating in our services. If expelling him would cause a greater evil, the Church with reluctance will allow him to participate.

<sup>111</sup> Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 467.

<sup>112</sup> Cf. Mausbach, *Catholic Moral Teaching and Its Antagonists*, p. 434.

The concessions which the Church grants through toleration should not be pressed too far. They are exceptions to a rule, which, in order to be licit, must always have a justifying cause. These exceptions must not overshadow the general rule of the Catholic Church, which reproves the active participation of non-Catholics in Catholic services.<sup>113</sup>

<sup>113</sup> Cf. Francis J. Connell, "Communication With Non-Catholics in Sacred Rites"—*AER*, CXI (1944), 178.

## CHAPTER TWO

### HISTORICAL SUMMARY

#### ARTICLE I — THE OLD TESTAMENT

As a theological science, Moral Theology proceeds from the Divinely inspired word and continually borrows from it, both its substance and its expressions. It is from Sacred Scripture that ecclesiastical law draws its fundamental principles. That the Old and the New Testament serve toward a correct formation of moral principles is admitted by all who recognize these sacred books as inspired: All scripture is inspired by God and useful for teaching, for reproving, for correcting, for instructing in justice; that the man of God may be perfect, equipped for every good work.<sup>1</sup>

In the Old Testament, Divine Cult was regulated by its ceremonial laws.<sup>2</sup> These laws determined the manner according to which Divine worship was to be performed. They prescribed a befitting conduct which the Chosen People had to observe at religious services. The ceremonial laws of the Old Testament were mainly concerned with keeping the worship of God holy and preserving it from adulteration with pagan rites and customs.<sup>3</sup> They did not overlook the dangers which would come from allowing the Gentiles to participate in their ceremonies. Besides the irreverence involved, such liberal practices would pave the way to perversion, or at least to indifference.

Unity in the worship of the one true God was the central theme of the Old Testament. The whole Mosaic legislation had one program in mind—to make Israel among all the nations of the earth a priestly kingdom, a holy nation, with its priests and people conse-

<sup>1</sup> II Tim. 3:17-18.

<sup>2</sup> In the Old Testament there were three kinds of laws: the moral law, which defined the duties man has towards God, himself and his neighbors; the judicial laws, which governed Israel as a theocratic nation; and the ceremonial laws, which regulated religious worship. Cf. St. Thom., *Summa Theol.*, I, II, q. 99.

<sup>3</sup> Merkelbach, *Summa Theologiae Moralis*, I, n. 306, sub B.

crated to worship God.<sup>4</sup> The Jews had received the providential mission from God to prepare a setting worthy for the coming of the Messias. Their theocratic kingdom was founded upon belief in the one true God, and its stability depended upon maintaining unity of belief and worship. But the history of the Israelites bears witness to a long and difficult struggle to preserve this unity of belief and worship.

God at sundry and critical times had sent his prophets to reiterate the dangers which came through intermingling with Gentiles. These men of God demanded faithful adherence to certain legal barriers which God had thrown up around his People, forbidding them to communicate with polytheistic nations.<sup>5</sup>

Because of friendly association with foreigners, or because of forced association brought about by captivity and occupation, the Jews were frequently in danger of mixed marriages. From the beginning, the Mosaic legislation forbade marital unions of the Jews with the Canaanites and other heathenish peoples.<sup>6</sup> It realized that marriages with those who professed false cults was a danger through which the worship of false gods could enter Israel. After their return from the Babylonian Captivity, Nehemias and Esdras fought zealously to enforce prescriptions against marriages with Samaritans and those Jewish families which had intermarried with the Gentiles. Manasses, the grandson of the Jewish High-Priest Eliasib, was rejected by his own people because of his marriage with the daughter of the Samaritan viceroy, Sanballat.<sup>7</sup>

Before any man could participate in the worship of Israel, he was first obliged to become initiated by a spiritual bond, i.e., by circumcision, which God Himself had instituted to distinguish His Chosen People. Circumcision was the very badge of Jewish nationality and the very nucleus of Jewish ceremonialism. Submission to the rite of circumcision was a prerequisite for participation in Jewish worship. Only foreigners who allowed themselves to be circumcised, and who

<sup>4</sup> Exodus 19:5; Deut. 7:6-14.

<sup>5</sup> Cf. Heinisch, Paul, *History of the Old Testament*, translated by William Heidt (Collegeville, Minn.: The Liturgical Press, 1952), p. 295 and p. 335.

<sup>6</sup> Exodus 34:11-16; Deut. 7:1-3.

<sup>7</sup> II Esdras 13:28.

thus entered into covenant relations with God, were permitted to share in the celebration of the Phase.<sup>8</sup> The Phase, or the Pasch, was a sacrifice of thanksgiving, commemorating the deliverance of the Chosen People. It was also a sacrament of unity for the Israelites. It prefigured the true sacrifice and the true sacrament of unity, the Holy Eucharist.

The right of expulsion from the pale of the Hebrew synagogue was exercised in the Old Testament.<sup>9</sup> Zorobabel and Josue expelled the schismatical Samaritans from the temple.<sup>10</sup> In his zeal to eliminate mixed marriages, Esdras had excluded many disobedient Jews from the community.<sup>11</sup>

To be deprived of burial in the family sepulchre was the greatest dishonor which could happen to an Israelite.<sup>12</sup> This ignominy befell such kings as Joram, Joas and Achaz who, because they had apostatized to idolatry, were refused burial in the royal sepulchre.<sup>13</sup> The prophets were wont to threaten disobedience and infidelity with denial of burial in the sepulchres of their fathers.<sup>14</sup>

Alongside Jewish efforts to erect a wall of separation between themselves and the pagans, there developed a more liberal attitude toward accepting proselytes into the Hebrew community. If strangers submitted to the law of circumcision, they were admitted into the community.<sup>15</sup>

It is to be noted, however, that the Jews had on several occasions offered public prayers for the Gentiles. Theologians refer to these examples when permitting the same for non-Catholics.<sup>16</sup> Thus Darius,

<sup>8</sup> Exodus 12:43 ff.

<sup>9</sup> Smith, S. B., *Elements of Ecclesiastical Law* (3 vols., New York: Benziger Brothers, 1888), III, n. 3163.

<sup>10</sup> I Esdras 4:2.

<sup>11</sup> I Esdras 10:8; cf. also Heinisch-Heidt, *History of the Old Testament*, p. 332.

<sup>12</sup> Gerster, Thomas, *Familia Veteris Testamenti* (Taurini: Marietti, 1820), p. 131.

<sup>13</sup> II Paral. 21:30, 24:25, 28:27.

<sup>14</sup> III Kings 13:22, 14:11.

<sup>15</sup> Heinisch-Heidt, *History of the Old Testament*, p. 342.

<sup>16</sup> Cf. de la Taille, Maurice, *The Mystery of Faith* (Book II, London: Sheed and Ward, 1950), th. XXXI, p. 301; Doronzo, Emmanuel, *De Eucharistia* (2 vols., Milwaukee: Bruce, 1948), p. 1118.

who had helped the Jews to rebuild the Temple after the exile, was favored with prayers offered for himself and his sons.<sup>17</sup> Prayers were likewise offered for the Spartans who had befriended the people of Israel.<sup>18</sup> And Heliodorus, who came to desecrate the sacra of the Temple, went away praising God after he had been healed through the prayers of the High Priest, Onias.<sup>19</sup>

The ceremonial laws of the Jewish Cult ceased to bind with the promulgation of the Christian Law. But the reasons which then forbade Gentiles to participate in the worship of Israel were fundamentally the same which forbid non-Catholics to participate in Catholic worship. The worship of the Old Testament was a true worship in its time. The same God was worshiped in the Old Law as in the New; today only the economy is different.

## ARTICLE II — THE EARLY CHURCH

### A. *The New Testament*

Our Lord foretold the cessation of adoration, both according to the rite of the Jews, who adored in Jerusalem, and according to the rite of the Samaritans, who adored on Mt. Garizim.<sup>20</sup> The ritual of Moses, instituted as "a shadow of the things to come," was to give way to the ritual of Christ.

Christ did not abolish the Jewish ceremonies with one stroke. The Apostles and their disciples continued to go to the Temple.<sup>21</sup> Later, when as Christians they were rejected from the Synagogue, they took along certain of the ancient ceremonies. These were retained for a while along with those proper to the Christian religion, to show that the Old Worship was related to the New. The new Christian worship by degrees replaced the Jewish worship.

In the infant Church the unity of faith in Christ was especially realized in the unity of the Eucharistic Sacrifice, the heart of the Church's cultus. "And they continued steadfastly in the teaching of

<sup>17</sup> I Esdras 6:10.

<sup>18</sup> I Mach. 12:11.

<sup>19</sup> Mach. 3:32.

<sup>20</sup> John 4:21.

<sup>21</sup> Cf. Acts 2:46-47; 3:1; 5:21; 5:42.

the apostles and in the communion of the breaking of the bread and in the prayers.”<sup>22</sup> Whenever the early Christians gathered, there were, according to Prat,<sup>23</sup> already two distinct assemblies, one for instruction and the other for the breaking of the bread.<sup>24</sup> Catechumens and pagans were admitted to the former, but were probably not admitted to the latter, the celebration of the sacred mysteries.<sup>25</sup>

In keeping with our Lord’s command: “. . . if he refuse to hear even the church, let him be to thee as the heathen and the publican,”<sup>26</sup> the early Church exercised its power to excommunicate. St. Paul expelled the heretics Hymeneus and Alexander, whom he “delivered up to Satan,” that is, excommunicated.<sup>27</sup> For sins less than heresy he commands the Corinthians: “Expel the wicked man from your midst.”<sup>28</sup> In the Epistle to the Hebrews the Apostle forbade the Jews to participate in the Eucharistic Sacrifice: “We have an altar from which they have no right to eat who serve the tabernacle.”<sup>29</sup>

St. John, the Evangelist, gives reasons why communication with heretics is forbidden: “If anyone comes to you and does not bring this doctrine, do not receive him into the house, or say to him, Welcome. For he who says, Welcome, is sharer in his evil works.”<sup>30</sup> Centuries later, the Holy Office referred to these words of the Evangelist when, in a summary on *communicatio* in general, it forbade the participation of non-Catholics in our worship because it implies a sign of unity of worship.<sup>31</sup>

Pagans, however, were not denied the public prayers of the Church. St. Paul enjoins “that supplications, prayers, intercessions

<sup>22</sup> Acts 2:42.

<sup>23</sup> Prat, Ferdinand, *The Theology of St. Paul*, trans, from the 11th French edition by John L. Stoddard (London: Burns Oates and Washbourne, 1933), Vol. I, p. 119.

<sup>24</sup> I Cor. 10:14 ff.

<sup>25</sup> I Cor. 14:23-26.

<sup>26</sup> Matt. 18:17.

<sup>27</sup> I Tim. 1:20; also cf. MacEvilly, John, *An Exposition of the Epistles of St. Paul* (Dublin: W. B. Kelly, 1875), Vol. II, p. 90.

<sup>28</sup> I Cor. 5:13.

<sup>29</sup> Heb. 13:10.

<sup>30</sup> II John 10.

<sup>31</sup> Instr. S. C. S. Off., 22 iun. 1859—*Coll. S. C. P. F.*, n. 1176.

and thanksgiving be made for all men; for kings and all in high positions . . ." Christians offered up prayers for all men in general, because God wills the salvation of all, and for rulers in particular, that God might bestow wisdom and justice upon them so that "we may lead a quiet and peaceful life in all piety and worthy behavior."<sup>32</sup>

### B. *Practice in the Early Church*

The Didaché, the oldest post-biblical literary monument, sets before us a reserved and sacramental worship, which no one is allowed to take part in, save after an initiation which is also sacramental.

As this bread had been scattered over the mountains, and when collected became one, so may Thy Church be gathered together into Thy kingdom from ends of the earth. . . . No one may eat or drink of your Eucharist unless he has been baptized in the name of the Lord; for concerning this the Lord has said: Do not give what is holy to the dogs.<sup>33</sup>

St. Ignatius of Antioch warns the faithful that those who follow schism should be excluded from the Sacrifice of the Mass, which commemorates the Passion:

Be not deceived my brethren. If any man follows one that makes schism, he does not inherit the doctrine, he has no fellowship in the Passion.<sup>34</sup>

The requirements for participation in the Holy Eucharist are clearly summed up by St. Justin. Baptism alone is not sufficient. One must believe in the truths of the Catholic Church.

We call this food the Eucharist. Of which no one may take part unless he believes our doctrine is true, and has been washed with the washing that is for the remission of sins and unto regeneration, and so lives as Christ has ordained.<sup>35</sup>

<sup>32</sup> I Tim. 2:1. The Fathers and the Commentators on the Scriptures understand these prayers as the public prayers of the Church. Cf. Prat, *The Theology of St. Paul*, II, p. 326.

<sup>33</sup> Didaché, c. IX, 4-5 (author's trans.).

<sup>34</sup> *Ad Philad.*, c. 3, *PG*, Tom. VII, col. 700 (author's trans.).

<sup>35</sup> *I Apol.*, c. 66, *PG*, Tom. VI, col. 428 (author's trans.).

Origen, writing against Celsus, shows that baptism is the entrance to the Christian community, to its worship. Christians try, instruct and purify those who wish to enter their assembly (εἰς τὸ κοινόν).<sup>36</sup> In his work *De Oratione*, Origen was unable to see how those who had fallen into idolatry could be readmitted to communion in worship.<sup>37</sup> Commenting on a passage in Exodus, he says that no stranger, i.e., one who professes a strange dogma, has a right to participate in our Passover, i.e., our Eucharist.<sup>38</sup>

St. Irenaeus proves that Catholics alone have the right to offer the Eucharistic Sacrifice. Heretics are excluded because their belief in the Real Presence is inconsistent with their other beliefs; Jews, because their hands are full of blood.<sup>39</sup>

Tertullian sets before our eyes the newly baptized coming out of baptism and praying for the first time in the Church, “. . . primas manus apud Matrem cum fratribus apertis.”<sup>40</sup> Heretics, he says, necessarily cut themselves off from the community of life and doctrine. They are forbidden to enter into peaceful relations and communion with us because of their diversity with regard to the mysteries of faith.<sup>41</sup>

The Church was not wont to accept gifts from excommunicated persons for fear they might interpret this as a sign of retaining communion with her. For this reason, Tertullian, when speaking of the expulsion of Valentius and Marcion for their heresies, says: “they were expelled once and again, and especially Marcion, with two hundred sesterces, which he had brought into the Church.”<sup>42</sup>

The discipline of the Church regarding *communicatio in sacris Catholicis* is clearly seen in her dealings with the catechumens. Catechumens were prospective converts from paganism who had to pass through stages of moral probation and religious instruction before

<sup>36</sup> *Contra Celsum*, Lib. III, c. 18, *PG*, Tom. VII, col. 1024.

<sup>37</sup> *De Oratione*, c. 28, *PG*, Tom. XI, col. 529.

<sup>38</sup> *Select. in Exod.*, *PG*, Tom. XII, col. 285.

<sup>39</sup> *Adversus Haereses*, Lib. IV, c. 17, *PG*, Tom. VII, col. 1023.

<sup>40</sup> *De Baptismo*, c. 20, *PL*, Tom. I, col. 1224.

<sup>41</sup> *De Praescriptionibus Adversus Haereticos*, c. 32, *PL*, Tom. II, col. 44.

<sup>42</sup> *Ibidem*, c. 30, *PL*, Tom. II, col. 42 (author's trans.). The sesterce, a Roman coin, was equivalent to a fourth of a denarius.

they were admitted to the celebration of the sacred mysteries.<sup>43</sup> First, as inquirers, they were given elementary instruction and were allowed to be present at the first part of the Mass. Then, as catechumens, properly so called, they were permitted to remain a little longer at the divine services to receive the Bishop's blessing on bended knees before being dismissed at the beginning of the *missa fidelium*. Only after having received Baptism were they permitted to participate in the Eucharistic Sacrifice. The division of the Mass, made later into the liturgical parts of *missa catechumenorum* and *missa fidelium*, owes its origin to a practice of the early Church, wherein only a limited participation was given to the catechumens.<sup>44</sup>

These few extracts from the teaching and practice of the early Church, though representative, are far from being exhaustive. Nothing was so clearly taught than the fact that membership in the Church community, and consequently the right to share in its worship, came through the profession of the one true faith and the initiation exercises of Baptism. It was equally evident that incorporation in Christ through Baptism reaches its sacramental consummation in Holy Communion.

### ARTICLE III — FROM THE THIRD CENTURY TO THE DECREE OF GRATIAN

#### A. Fathers

Besides denying heretics and apostates the benefits and privileges of baptism, the discipline of the Church manifests itself in the invective measures passed against the *lapsi*. Because of local difficulties certain bishops deemed it necessary to adopt measures, more stringent than the usual ones. This is especially noticeable in the African church.

<sup>43</sup> The catechumenate was definitely organized at the time of Tertullian (*De Praescrip. Adv. Haereticos*, c. 41, *PL*, Tom. II, col. 56).

<sup>44</sup> St. Augustine mentions the dismissal of the catechumens, which took place after the sermon (post sermonem fit missa catechumenorum), (Serm. 49, n. 8, *PL*, Tom. 38, col. 324). As there was a dismissal of the catechumens at the end of the first part of the services, Florus Diaconus (*De Expositione Missae*, n. 92, *PL*, Tom. 119, col. 72) adds there was a dismissal of the faithful after the Communion.

Through a combination of moderation and severity, St. Cyprian of Carthage outlined a plan for readmitting to communion the *lapsi*, i.e., Christians who, during the period of pagan persecutions, had fallen away from the faith. Of these, none, not even the less guilty *libellatici*, who had not sacrificed to idols, but managed to obtain a certificate falsely testifying that they had done so, were to have their rights of communication restored to them before performing the prescribed penances. The *sacrificati* who had actually sacrificed to the idols, because their infidelity was more grievous, were subject to severe penance before being admitted to communion with the Church. Diverse penances were meted out for diverse guilt; only those were excluded from reconciliation who externally refused to do penance to the end of their lives.<sup>45</sup>

We hold that those who do not perform penance nor give evidence of sorrow for sin from the depth of their hearts and by the public manifestation of their grief simply do not possess a desire to communicate or to enjoy peace, if in sickness and in peril they begin to ask for these things, because it is not sorrow for sin which is prompting them to ask but rather it is the proximate danger of death; nor is it fitting that they receive in death the comfort which they would spurn if removed from the danger of death.<sup>46</sup>

Cyprian insisted that the *lapsi* could not re-enter into communion with the Church at will or on their own. They had to submit themselves to the power of the keys. Their sin of infidelity was not to be remitted without the fulfillment of prescribed conditions. Holy indignation seized St. Cyprian in the following invective wherein he chastises those who had fallen into idolatry and expected immediately, without penance, to receive Holy Communion.

Returning from the altars of the devil they approach the sacred

<sup>45</sup> Cf. Boyer, Carolus, *Tractatus De Sacramento Paenitentiae et De Extrema Unctione* (Romae: Apud Aedes Pont. Universitatis Gregorianae, 1942), pp. 189 ff.

<sup>46</sup> *Epist. LV*, c. 23, *CSEL* (in 3 partes, Thasci Caecili Cypriani—*Opera Omnia*—Ex Recensione G. Hartelii, Vindobonae: Apud C. Geroldi Filium Bibliopolam Acamediae, Pars I, 1858; Partes II et III, 1871), Vol. III, Pars II, 641 (author's trans.).

thing of the Lord (*sanctum Domini*) with their hands reeking of filthiness and contamination; still belching from the deadly food of idols they assail the body of the Lord even though their mouths betray their crime and smell of a festering infection. . . .

All these admonitions being scorned and hated, before their sins are expiated, before their crime is confessed, before their consciences have been purified by the sacrifice and hand of the priest, before the offense against an angry and threatening Lord has been appeased, violence is done to the body and blood of the Lord; and they now commit a greater crime against the Lord with their hands and lips than when they had denied Him.<sup>47</sup>

Such ones were not to be given the *pax* before they had performed sufficient penance. First came the *impositio paenitentiae* from the priest, then the *actio paenitentiae*, i.e., its fulfillment by certain acts and rites, and finally the *absolutio paenitentiae*, by which one was given the *pax* and was permitted to receive Holy Communion.<sup>48</sup> Neither in Cyprian's time nor before him did the Church hold heresy or apostasy as irremissible; but penance was always the condition for reconciliation.<sup>49</sup>

A point pertinent to the question of *communicatio in divinis* appears in the controversy over the validity of Baptism administered by heretics. St. Cyprian stood for rebaptism,<sup>50</sup> but Pope Stephen would not support him.<sup>51</sup> The practice of the Church in the West was not to rebaptize heretics as long as the sacrament was known to have been administered under the Trinitarian form and as the Church intends. The Council of Arles (a. 314) upheld this practice of Rome.<sup>52</sup>

<sup>47</sup> *Liber de Lapsis*, cc. 15-16, CSEL, Vol. III, Pars I, p. 248. (author's trans.).

<sup>48</sup> Cf. Galtier, Paulus, *De Paenitentia Tractatus Dogmatico-Historicus* (Parisiis: Apud Gabriel Beauchesne, 1931), n. 256.

<sup>49</sup> *Ibidem*, n. 224.

<sup>50</sup> *Epist. LXXI, Ad Quintum*, CSEL, Vol. III, Pars II, p. 778.

<sup>51</sup> *Fragm. epist. ad Cyprianum, ex huius epist. (74) ad Pompeium*, Denzinger-Bannwart-Umberg, *Enchiridion Symbolorum, Definitionum et Declarationum de Rebus Fidei et Morum* (24 ed., Barcelona: Editorial Herder, 1946), 46 (hereafter cited DB).

<sup>52</sup> Conc. Arelatense I (a. 414), Can. 8—DB, 53.

If certain localities adopted stricter discipline, they had in mind to more securely protect the faithful against the contagion of heresy. Synesius took such a step against Andronicus, Throas and their accomplices.

Let no temple of God be opened to Andronicus and his followers nor to Throas and his group. Let every church and religious enclosure be closed to them. . . . Furthermore I exhort each and every individual and magistrate not to be with them under the same roof, nor to receive them at their table; especially do I admonish priests not to greet them during their lifetime, nor perform for them the funeral ceremonies after death.<sup>53</sup>

Here the censure imposed by Synesius cuts deep, into civil as well as religious communication. For a time Laodicea thought it was too dangerous to allow heretics to enter her churches and intermingle with her faithful.

Prohibitions were not generally so severe. Passages from the homilies of the Fathers, especially St. Chrysostom,<sup>54</sup> show that liberty was granted to heretics together with Jews and pagans to listen to sermons preached in church for their instruction. Sozomen, the historian, attests to the fact that: "Many of those who heard John preach in the church were moved to exercise virtue and were induced to agree with him in matters of faith."<sup>55</sup> By tolerating the presence of heretics, Jews and pagans in the Church, he converted many to the faith. If Laodicea had a canon contrary to this practice, it was a local ordinance which for prudential reasons she had a right to enact.<sup>56</sup>

Only the baptized who died in communion with the Church were given the honor of a Christian burial, while those who died in professed rebellion were denied this privilege. According to the maxim

<sup>53</sup> *Epist. LVIII, PG, Tom. LXVI, col. 1402* (author's trans.).

<sup>54</sup> *Hom. de Pelagia V. et M., PG, Tom. L, col. 582; Hom. de Hieromart. Phoca, PG, Tom. L, col. 699; Hom. XXVII in Matt., PG, Tom. LVII, col. 334; Hom. de Prophet. Obscur., PG, Tom. LVI, col. 163; Hom. XL in I Cor., PG, Tom. LXI, col. 547.*

<sup>55</sup> *Historia Ecclesiastica, Lib. VIII, c. 2, PL, Tom. LXVII, col. 1514* (author's trans.).

<sup>56</sup> *Conc. Laodicea (circa annum 370), can. 6, Mansi, Tom. II, col. 565.*

of Pope Leo the Great (448): "We cannot hold communion in death with those who in life were not in communion with us."<sup>57</sup> No solemnity of the psalmody or prayers were offered at their funerals. No oblations were offered for them, nor was any memorial ever after made for them in the solemn services of the Church. Their names were not inserted among the faithful in the diptychs, to be remembered in the prayers at the altar. The well-known scholar on the Holy Eucharist, de la Taille, makes the historical observation that measures were constantly taken to prevent excommunicated persons from being mentioned publicly in the celebration of the sacred mysteries, so much so that, were anyone to transgress this rule, he would then and there disclose that he is associating in sacred things with excommunicated persons. Likewise, he adds, to be excluded from the diptychs meant to be branded as excommunicated.<sup>58</sup>

For deceased catechumens, who had died unexpectedly while piously preparing for Baptism, Chrysostom allowed nothing more than private prayers and alms.

The law that the deceased be given a remembrance at the awe-inspiring mysteries was made not without reason by the apostles. They knew the great fruit and benefits which would come to them from it. For when the entire congregation and sacerdotal body pray with arms extended, and the tremendous victim lies before us, how can we do otherwise than to pray to God on their behalf? This is certainly true for those who died in the faith, but as for the catechumens—they are not yet worthy of this consolation and are deprived of all such help. But there is one exception for them. What is it? It is permitted to give alms for them.<sup>59</sup>

The Liturgy of Good Friday, one of the oldest in the Church, contains prayers for heretics and schismatics, for Jews, and for Infidels. In the restored Liturgy of Good Friday the Church prays for them in the orations, "Pro Unitate Ecclesiae," "Pro Conversione

<sup>57</sup> *Epist. CLXVII ad Rusticum Narb.*, *PL*, Tom. LIV, col. 1206 (author's trans.).

<sup>58</sup> De la Taille, Maurice, *The Mystery of Faith*, Book II, *The Sacrifice of the Mass*, translated by Joseph Carroll (London and New York: Sheed and Ward, 1950), thesis XXXI, p. 316.

<sup>59</sup> *Hom. III in Phillip.*, n. 4, *PG*, Tom. LXII, col. 204 (author's trans.).

Judaeorum," and "Pro Conversione Infidelium."<sup>60</sup> Pope Celestine upheld this doctrine as apostolic, and noted that the Church in her liturgy begs and prays:

... that the faith may be given to the infidels, that the idolators may be freed from the error of their impiety, that, after lifting the veil from their hearts, the light of faith may appear to the Jews, that the heretics may come to the knowledge of the Catholic faith once again, that the schismatics may receive the spirit of a revived charity, that the remedy of penance may be given to the lapsed, and finally, that for the catechumens, led to the sacraments of regeneration, the enclosure of heaven's mercy may be opened.<sup>61</sup>

### B. Early Councils

From the beginning the Church dealt more strictly with heretics and those who apostatized than with pagans. This especially appears in the legislation of the Synod of Elvira, held about the year 305. This Synod is considered a landmark for legislation on *communicatio in sacris*. The first canon reads: "If an adult who has been baptized has sacrificed to idols, and has thus committed a capital crime, he cannot be received into communion, even at the end of his life."<sup>62</sup> According to Hefele, some erroneously believed that *communio* here signifies, not eucharistic communion, but only communion with the Church, or sacramental absolution. But it would seem they are mistaken. *Communio* in this instance means not only communion with the Church but sacramental communion as well. If any are excluded from the Church, and if they cannot receive sacramental absolution, neither can they receive the Holy Eucharist.<sup>63</sup>

<sup>60</sup> *Ordo Hebdomadae Sanctae Instauratus* (Desclée et Socii, Romae: 1956), Feria VI in Passione et Morte Domini.

<sup>61</sup> *Epist. XXI ad Episcopos Galliarum*, c. II, n. 12, *PL*, Tom. L. col. 535 (author's trans.).

<sup>62</sup> Can. I: "Placuit inter eos, qui post fidem baptismi salutaris, adulta aetate, ad templum idololatraturus accesserit, et fecerit quod est crimen principale (quia est summum scelus) placuit, nec in fine eum communionem accipere." —Mansi, II, 8.

<sup>63</sup> Hefele, Charles Joseph, *A History of The Christian Councils*, trans. by William R. Clark (Edinburgh: T. and T. Clark, 1871), I, p. 138.

The same Synod forbade marriages with heretics, Jews and pagans. But it imposed disciplinary penalties only for marriages with heretics and Jews, because these are less indifferent than the pagans for the religion of their partner, and are less willing to have their children brought up in the practice of the Catholic faith.<sup>64</sup> The spirit of evangelical mercy appears in Canons 39<sup>65</sup> and 42.<sup>66</sup> The former canon permits a pagan in danger of death to be given both Baptism and Confirmation by the bishop. The latter canon allows the time of the catechumenate to be shortened for the sick. Canon 28 forbade the bishop to receive an offering from those who are not in communion with the Church, or who are excluded from participation in the Holy Eucharist, as the neophytes and the excommunicates.<sup>67</sup> The offering referred to in the canon is the *oblata*, given to the bishop at the altar.<sup>68</sup> The Fathers, gathered at Carthage about 398, passed a similar decree.<sup>69</sup>

From the Council of Laodicea comes the often repeated prescription: It is not permitted to pray together with heretics or schismatics.<sup>70</sup> The purported Fourth Council of Carthage decreed that

<sup>64</sup> Can. 15: "Propter copiam puellarum, Gentilibus minime in matrimonium dandae sunt virgines Christianae, ne aetas in flore tumens in adulterio animae resolvatur."

Can. 16: "Haeretici, si se transferre noluerint ad ecclesiam catholicam, nec ipsis catholicas dandas esse puellas: sed neque Judaeis, neque haereticis, dare placuit eo quod nulla possit esse societas fidei cum infidei. Si contra interdictum fecerint parentes, abstinere per quinquennium placet."—Mansi, II, 8.

<sup>65</sup> Can. 39: "Gentiles, si in infirmitate desideraverint sibi manum imponi, si fuerit eorum ex aliqua parte honesta, placuit, eis manum imponi, et fieri Christianos."

<sup>66</sup> Can. 42: "Eos qui ad fidem primam credulitatis accedunt, si bonae fuerint conversationis, inter biennium placuit ad baptismi gratiam admitti debere; nisi infirmitate compellente coegerit ratio vel acius subvenire periclitanti, vel gratiam postulanti."—Mansi, II, 12.

<sup>67</sup> Can. 28: "Episcopus placuit ab eo qui non communicat munera accipere non debere."—Mansi, II, 10.

<sup>68</sup> Hefele, *A History of The Christian Councils*, II, p. 148.

<sup>69</sup> Conc. Carthagense, (a. 398), Can. 93: "Oblationes dissentium fratrum nec in sacrario, neque in gazophylacio recipiantur."—Mansi, II, 958.

<sup>70</sup> Can. 33: "Quod non oportet una cum haereticis vel schismaticis orare."—Mansi, II, 569.

the faithful may not pray nor sing psalms with heretics.<sup>71</sup> Thus all prayer and singing had in common with heretics was forbidden. The faithful were prohibited to participate in their prayers and singing, and the heretics were not allowed to take part in ours.

A canon of the Council of Laodicea declares: That it is not permitted to heretics, as long as they continue in heresy, to enter the house of God.<sup>72</sup> But unlike Laodicea, the African<sup>73</sup> and Spanish Synods<sup>74</sup> permitted heretics to enter churches to listen to sermons preached for their instruction. The Fathers of the Valencian Synod gave the reason for this leniency,—the experience had taught them many had been converted through hearing the word of God.

The Council of Braga (a. 563) decreed that not even for catechumens, who had departed from this life without the redemption of baptism, could any commemoration be made at Mass, or any office be chanted for them.<sup>75</sup>

#### ARTICLE IV — FROM THE DECREE OF GRATIAN TO THE XVI CENTURY

##### A. *The Decree of Gratian and the Constitution "Ad evitanda"*

With the twelfth century a series of decretals began to appear in ecclesiastical law. The first to appear were the Decretals of Gratian. In his *Decretum* (c. 1150), Gratian purported to reconcile the many inconsistencies on the canons of different age and authorship on the same subject. His compilation served as a pattern for subsequent

<sup>71</sup> Can. 72: "Cum haereticis nec orandum nec psallendum."—Mansi, III, 957.

<sup>72</sup> Can. 6: "Non permittere haereticis, ut in domum domini ingrediantur, si in haeresi permaneant."—Mansi, II, 565.

<sup>73</sup> Conc. Carthagense, IV, Can. 84: "Ut episcopus nullum prohibeat ingredi ecclesiam, et audire verbum Dei, sive gentilem, sive haereticum, sive Judaeum, usque ad missam catechumenorum."—Mansi, III, 958.

<sup>74</sup> Conc. Valent., (a. 524), Can. I: "Ut sacrosancta evangelica . . . legantur . . . non solum fideles sed etiam catechumeni ac paenitentes, et omnes qui e deverso erunt, audire licitum habeat. Sic enim pontificum praedicatione audita, nonnullos attractos ad fidem evidenter scimus."—Mansi, VIII, 620.

<sup>75</sup> Conc. Bracaraense II (a. 563), Can. 17: "Item placuit, ut catechumenis sine redemptione baptismi defunctis simili modo non oblationis commemoratio, neque psallendi impendatur officium, nam et hoc per ignorantiam usurpatum est."—Mansi, IX, 779.

decretals. In fact the decretals, which came later, omitted many of the inaccuracies found in the *Decree* of Gratian. Ratified and published by papal authority, they became the general code for the whole Catholic world.

In these decretals, the question of *communicatio* was dealt with under the ecclesiastical censure of excommunication. During this period the law concerning association with non-Catholics, especially with heretics, was very severe, and at times unbearable, particularly with regard to civil communication. Many of the faithful, because of their intercourse with excommunicated persons, incurred minor excommunication and were thus deprived of certain benefits of the Church.<sup>76</sup>

In the period immediately preceding the Council of Constance (a. 1414-18), the faithful had to avoid communicating *in divinis* and *in humanis* with any person who had incurred a major excommunication. The multiplicity of crimes to which excommunication had been annexed became so excessive that it was difficult for the faithful to avoid communicating with excommunicates even in social and civil affairs. Many were uncertain as to whether or not they themselves had incurred excommunication through communicating with such.<sup>77</sup> Hence, to avoid scandal and numerous dangers and to relieve timorous consciences, Pope Martin V published the Bull *Ad evitanda* in 1418, which mitigated the former discipline regarding communication.<sup>78</sup>

In this Constitution, Pope Martin declares the mitigation was made not in favor of the excommunicated, whose condition remains unchanged, but solely for the benefit of the faithful. The faithful were greatly relieved. They were given a rule regulating their conduct toward persons under excommunication. As far as the excommunicates themselves were concerned, they were still to observe the

<sup>76</sup> Cf. c. 2, X 2, 25; c. 31, X 5, 39; Prümmer, *Manuale Theologiae Moralis*, I, n. 523, nota 46.

<sup>77</sup> Cf. Smith, *Elements of Ecclesiastical Law*, III, n. 3173.

<sup>78</sup> Cf. Const. "*Ad evitanda*," Martini V (in Conc. Constantien.) anno 1418, (*Codicis Iuris Canonici Fontes*, cura Eñi Petri Card. Gasparri Editi, 9 vols., Romae [postea Civitate Vaticana]: Typis Polyglottis Vaticanis, 1923-1939 [Vols. VII-IX, ed. cura et studio Eñi Iustiniani Card. Seredi]), I, n. 45 (hereafter cited *Fontes*).

former legislation with regard to *communicatio*. Ecclesiastical writers of the following centuries did not lose sight of these salient points; they repeatedly referred to them.

The Constitution *Ad evitanda* introduced into canon law a distinction between the excommunicates to be *tolerated* and those to be *avoided*. But the terms *tolerati* and *vitandi* do not appear in the Constitution.<sup>79</sup> The number of those to be avoided had been greatly reduced. Henceforth, the faithful would have to shun only those who had been excommunicated by name, and when, moreover, this excommunication had been officially made public, and that not merely in general, but specially and expressly.

During this period most heretics fell into the class of the *tolerati*. There was no special or distinct legislation for them as such. In the problems of communication, canonists and theologians held them bound to the penalties inflicted upon the *tolerati* in general. But not all *tolerati* could shed these penalties with the same facility; none were held so strictly to them as the heretics. We ought not to think what was permitted to the *tolerati* was equally permitted to the heretics. While the ecclesiastical law permitted communication, even *in sacris*, with the *tolerati*, communication with heretics *in sacris* was forbidden by the natural and divine law.<sup>80</sup> If a heretic was excommunicated by name, he became a *vitandus*. The penalty against such a one was most severe. The faithful had to avoid communicating with him *et in divinis et in humanis*.

### B. St. Thomas

Early Scholastic literature does not treat religious communication *ex professo*. The prohibitions to communicate are found scattered throughout the various tracts. They are based upon one of two reasons; a person is forbidden to participate in Catholic worship, either because he is excommunicated, or because he is an infidel. The penalties of excommunication ordinarily covered the heretics. The prohibitions against infidels appear especially in the tracts on the

<sup>79</sup> Cf. Hyland, *Excommunication*, pp. 43-44.

<sup>80</sup> Gury, Joannes P., S.J., *Compendium Theologiae Moralis*, (Editio in Germania quarta, Ratisbonae; Typis et Sumptibus Georgii Josephi Manz, 1868), II, n. 964, nota 1.

sacraments, where, because they lack Baptism, they are said to be *inhabiles* for all sacraments except Baptism.

In his *Summa* St. Thomas forbade communication even in civil matters, especially with Jews, lest from civil association, religious communication and finally perversion of the faith ensue. He cautions that those whose faith is weak, whose perversion is feared as a probable result, should be forbidden to communicate with unbelievers.<sup>81</sup> The unbaptized are not to be allowed even to see the Blessed Sacrament.<sup>82</sup> The character of Confirmation of necessity supposes the baptismal character; only a baptized person can receive Confirmation.<sup>83</sup> The faithful are forbidden to marry unbelievers because of disparity of worship.<sup>84</sup>

The spiritual goods of which the excommunicates were deprived included, besides the sacraments, the suffrages of the Church. According to St. Thomas, and he was not alone in this opinion, the suffrages of the Church could not be offered even privately for excommunicates, and consequently heretics.<sup>85</sup> But as Gury already noted before the Code, while this opinion holds for indulgences, it cannot be sustained by any strong argument for prayers; prayers could be offered for them, but not publicly.<sup>86</sup>

#### ARTICLE V — FROM THE XVI CENTURY TO THE CODE

Our phase of religious communication received attention from Suarez. The participation of unbelievers in the things and works of our religion is, he notes, sometimes forbidden by the divine and natural law as intrinsically evil. For instance, because they are not baptized, they are forbidden to participate in the other sacraments. Marriage with unbelievers is forbidden more by ecclesiastical than by divine prohibition. This prohibition is made not only because of the dangers involved in it, but reverence for marriage forbids it. Marriage, when entered into by two of the faithful, is raised to the

<sup>81</sup> II, II, q. 10, a. 9.

<sup>82</sup> III, q. 80, a. 4.

<sup>83</sup> III, q. 72, a. 6.

<sup>84</sup> III, q. 59, a. 1.

<sup>85</sup> III, Suppl. q. 21, a. 1.

<sup>86</sup> *Compendium Theologiae Moralis*, II, n. 964, nota 1.

order of a sacrament. There are other modes of participation which are forbidden by divine law to unbelievers, for example, to be present at the Sacrifice of the Mass. But unbelievers may be permitted to attend that part of the Mass known as the *missa catechumenorum*. They may listen to sermons preached for their benefit. It is also permitted to pray *privately* for them and to teach them the mysteries of the faith.<sup>87</sup> The prohibitions to communicate imposed against unbelievers is not *per modum censurae*. Since they are unbaptized, the nature of certain things forbids their participation. With heretics the prohibition is direct, and it is imposed not only *per modum simplicis precepti*, *sed etiam per modum censurae*, by which they are deprived of all participation and spiritual fruit which can be had from communicating with the Church.<sup>88</sup>

The severest penalty inflicted against excommunicates was the denial of the active and passive use of the sacraments. The active dealt with the administration of the sacraments and the celebration of Mass, while the passive concerned itself with the reception of the sacraments.

When priests were abandoning the faith to join Protestant sects, Catholic theologians discussed at length whether the faithful could, in case of extreme necessity, accept the administration of the sacraments from heretical priests. This problem has not completely disappeared. It occurs today, but not as frequently, with regard to schismatic priests, or those priests who have gone over to heresy, or against whom a declaratory sentence has been passed. Because of the danger of scandal or perversion, only one in extreme spiritual necessity may ask such priests for absolution and Extreme Unction, it being understood that no Catholic priest in good standing is available.<sup>89</sup>

The moral theologians of this period taught that it is mortally sinful for an excommunicated person to receive a sacrament; in fact,

<sup>87</sup> Suarez, Franciscus, *De Fide*, Disp. XVIII, sect. 4, n. 3—*Opera Omnia* (28 vols., Editio Nova a Carolo Berton, Parisiis: Apud Ludovicum Vivès, Bibliopolam Editorem, 1856-1866), XII, 457.

<sup>88</sup> *De Fide*, Disp. XX, sect. 3, n. 15—*Opera Omnia*, XII, 514.

<sup>89</sup> Cf. Bancroft, *Communication in Religious Worship with Non-Catholics*, p. 106. Fr. Bancroft also notes that Holy Viaticum may in an exceptional case be received from a non-Catholic priest.

he commits a sacrilege. Hence, if a heretic receives a sacrament, he does so validly because he is baptized, but illicitly because he is excommunicated.<sup>90</sup> Likewise, priests are obliged *sub mortali* to refuse them the sacraments. Priests must avoid illicit co-operation with them in sin.<sup>91</sup>

Under the old law some denied Mass could be applied even privately for excommunicates. Suarez<sup>92</sup> and Vasquez<sup>93</sup> denied Mass could be applied properly and directly in the name of the Church for excommunicates. Others, as Lugo,<sup>94</sup> the Salmanticenses<sup>95</sup> and St. Alphonsus,<sup>96</sup> believed Mass could be applied directly and in particular for heretics. As Gury<sup>97</sup> before, and Iorio<sup>98</sup> after the Code rightly remark, the pre-Code proscriptions against offering Mass for non-Catholics were concerned with the *public* and *solemn* application of Mass. To offer Mass *privately* for them, according to Gury, does not conflict with the earlier prohibitions of the Church.

The Carmelite Moralists of Salamanca ask whether the common suffrages and the prayers of the Church may be offered for excommunicates—and among whom they explicitly include the public heretics of Germany, France and England. They answer in the affirmative.<sup>99</sup> Here also we must remember they do not mean publicly. Rather, the public prayers of the Church may be offered *privately* for these individuals.

<sup>90</sup> Salmanticenses, *Cursus Theologiae Moralis* (6 vols., Venetiis: Apud Nicolaum Pezzana, 1728), Tract. X, c. 3, punc. 4, n. 43; Laymann, Paulus, *Theologia Moralis* (2 vols., Bambergae: Impensis Joannis Arnoldi Cholini, 1669), Lib. I, tract. V, p. 2, c. 2; St. Alphonsus, *Theologia Moralis* (4 vols., Romae: Gaudé, 1905-1912), Lib. VII, n. 158.

<sup>91</sup> Lacroix, Claudius, *Theologia Moralis* (2 vols., Coloniae: ex officina Neoltheniana, 1729), Lib. VII, c. 2, dub. 3, n. 198.

<sup>92</sup> *De Censuris*, Disp. IX, sect. 2.

<sup>93</sup> *De Excommunicatione*, Dub. 2.

<sup>94</sup> De Lugo, Joannes, *Disputationes Scholasticae et Morales* (editio nova, 8 vols., Parisiis: Apud Ludovicum Vivès, 1868-1869), Disp. XIX, sect. 10, n. 187.

<sup>95</sup> *De Censuris*, c. 3, p. 4, n. 59.

<sup>96</sup> *Theologia Moralis*, Lib. VII, n. 163.

<sup>97</sup> *Compendium Theologiae Moralis*, II, n. 961.

<sup>98</sup> *Theologia Moralis*, III, n. 190.

<sup>99</sup> *De Censuris*, c. 3, p. 5, n. 59.

Provided Mass was not being celebrated, Suarez permitted heretics to enter a chapel in which others were praying and offer their prayers privately. They were not to join with the faithful in any of the common prayers.<sup>100</sup> The Salmanticenses allowed unbelievers to attend the Holy Sacrifice of the Mass, if there was hope for their conversion.<sup>101</sup> The present Code omits these prohibitions altogether.

The ban of excommunication also forbade the conferring of sacramentals upon heretics. Chrismatic consecrations and solemn blessings were simply forbidden them. They were not denied the use of certain sacramentals.<sup>102</sup> Thus the Salmanticenses allowed them to use sacred images, relics, holy water and such similar sacramentals, so that by venerating them they might be moved toward a more virtuous life or toward conversion. Likewise, they could pray before an indulgenced image, not with the purpose of gaining indulgences, because these, they say, are forbidden them, but that they might show reverence toward the image, and thereby, through impetration, gain some spiritual good.<sup>103</sup>

The pre-Code discipline denied non-Catholics ecclesiastical burial.<sup>104</sup> Some authors, in virtue of the Constitution *Inter Cunctas Martini V*,<sup>105</sup> believed those heretics who had not been denounced by the Church, as the *tolerati*, could be given ecclesiastical burial. But the majority maintained that even though no sentence was specially and expressly passed against them, they were to be denied ecclesiastical burial for other reasons, i.e., simply for being heretics or public sinners.

The Salmanticenses taught that a heretic could act validly but

<sup>100</sup> *De Censuris*, Disp. XII, sect. 3, n. 1; also cf. Salmanticenses, *De Censuris*, c. 3, p. 4, n. 68.

<sup>101</sup> *De Præceptis Decalogi*, Tract. XXI, c. 3, p. 4, n. 26.

<sup>102</sup> Cf. Suarez, *De Censuris*, Disp. XII, sect. 3, n. 3; Salmanticenses, *De Censuris*, c. 3, p. 6, n. 67; St. Alphonsus, lib. 7, n. 174.

<sup>103</sup> Salmanticenses, *De Censuris*, loc. cit.

<sup>104</sup> Cf. Kerin, Charles, *The Privation of Christian Burial*, The Catholic University of American Canon Law Studies, no. 136 (Washington, D. C.: The Catholic University of America Press, 1941), pp. 32-37.

<sup>105</sup> Constitutio Martini V *Inter Cunctas*, 22 febr. 1418—*Fontes*, I, n. 43, para. 8.

illicitly as a sponsor at baptism.<sup>106</sup> St. Alphonsus held the same.<sup>107</sup> According to the new Code, non-Catholics cannot validly exercise this office.<sup>108</sup>

In former times it was not rare that heretics, who were denied Christian burial, were, because of civil statutes, buried in Catholic cemeteries. This could be tolerated if refusing would otherwise cause great scandal. In Protestant countries provisions were made later for such difficulties by blessing, not the new cemetery, but only the single graves of Catholics.<sup>109</sup>

The Church has always regarded mixed marriages as a reprehensible form of *communicatio in sacris*. There is no period in which she did not oppose such wedlock. Renewed prohibitions appear in her legislation as the dangers involved in such unions became greater.<sup>110</sup> In the sixteenth century, the Protestant revolt forced the Church to take a more stringent stand against mixed marriages with heretics. To forestall the further spread of Protestantism, mixed marriages were forbidden altogether. In the course of time, however, when the tide of heresy began to wane she relaxed her position. The Roman Pontiffs for weighty reasons began to allow mixed marriages in Belgium, provided they were performed before a priest, without any religious solemnity and no announcement of the banns.<sup>111</sup> Similar concessions were later granted to other countries.<sup>112</sup>

When much of the fury of the so-called Reformation had subsided, the question arose whether sacramental absolution could be given to dying heretics in good faith. But before theologians could take up this question in earnest, they first had to solve a more fundamental controversy then prevalent, namely, whether absolution itself

<sup>106</sup> *De Sacramento Baptismi*, Tract. II, c. 7, p. 2, n. 46.

<sup>107</sup> *Theologia Moralis*, Lib. VI, n. 156.

<sup>108</sup> Cf. Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 577.

<sup>109</sup> Gury, *Compendium Theologiae Moralis*, II, n. 915.

<sup>110</sup> In the thirteenth century, the *Decretum Gratiani* listed the marriage with an infidel as a diriment impediment, i.e., making the marriage null and void, if no dispensation had been obtained (C. 15, C. XXVIII, q. 1). Marriage with heretics was considered valid but illicit, if no dispensation had been received (C. 16, C. XXXVIII, q. 1).

<sup>111</sup> Ex Rescr. Pii VI ad Card. de Franckenberg archiepisc. Mechlin. et episcopos Belgii, 13 iulii 1782—*DB*, 1496-1499.

<sup>112</sup> Cf. Lehmkuhl, *Theologia Moralis*, II, n. 943.

could be administered *conditionally*. Upon the outcome of this controversy the question of absolving dying heretics depended. The controversy ended in favor of administering absolution *conditionally* to those obviously in need of it, even though they are doubtfully disposed. None, however, are in greater need of absolution than those in danger of death. May, then, that which is conceded to dying Catholics, stricken in *actu peccati*, i.e., *duelli*, *adulterii*, be extended in a similar manner, that is, *conditionally*, to dying heretics in good faith?

At the time when this question first appeared, only one or the other theologian held a dying heretic could be absolved conditionally. St. Alphonsus reviews the question with the discussion of conditional absolution as its background. He says:

I said a Catholic may be absolved conditionally, for the contrary must be said concerning a heretic, as Holzmann rightly observes. For heretics, even though they manifest signs of repentance in such cases, ought not to be absolved, unless they expressly ask for absolution; since such heretics can never be prudently presumed to make those signs in relation to confession, of which they have the greatest horror.<sup>113</sup>

Lacroix who in support of his position cites Gobat and Caramuel, believed heretics could be absolved, provided they were in good faith, and especially if they had any leanings toward the Catholic faith, such as friends or relatives, or those instructed and cared for by Catholic sisters. Because they are in good faith, it is believed they, in a general and implicit way, desire to receive all which is necessary for salvation.<sup>114</sup> Elbel favored Lacroix's opinion.<sup>115</sup>

As time went on, the favorable opinion gathered more adherents, so much so that today only one or the other deny its probability. Kenrick<sup>116</sup> and Reuter,<sup>117</sup> and such pre-Code manualists as Gury<sup>118</sup>

<sup>113</sup> *Theologia Moralis*, Lib. VI, n. 483.

<sup>114</sup> *Theologia Moralis*, Lib. VI, n. 1866.

<sup>115</sup> Elbel, Benjamin, *Theologia Moralis per Modum Conferentiarum* (3 vols., Paderbornae: Schroeder, 1892), III, Pars IX, Conferentia 8, n. 213.

<sup>116</sup> *Theologia Moralis*, Tract. XVIII, De Paenitentia, n. 211.

<sup>117</sup> Reuter, Joannes, *Neo-Confessarius* (Ratisbonae: Manz, 1870), n. 203.

<sup>118</sup> Gury, Joannes, *Casus Conscientiae* (Ratisbonae: Manz, 1865), I, n. 190; II, nn. 489-492.

and Lehmkuhl,<sup>119</sup> made this the more accepted opinion. These authors maintained a dying heretic could be absolved conditionally and secretly. Even though such a one is in possession of his senses, and the priest finds it difficult and imprudent to exhort him to enter the Church, he may absolve him. But the dying man must be induced to declare himself a sinner, be sorry for his sins, and desire to be helped by the ministrations of a priest in all which will aid him to obtain eternal beatitude.

As a sequel to absolving dying heretics conditionally, the question arose whether Extreme Unction could be likewise administered to the same. Several authors who permitted absolution conceded conditional administration of Extreme Unction to dying unconscious non-Catholics. But the majority of the theologians saw no reason for this liberality. Those who favored its administration looked upon the Sacrament of Extreme Unction as a complement to the Sacrament of Penance. The nature of its administration is such that it is more difficult to *secretly* confer than absolution. As for the bystanders, it frequently has to be omitted because of scandal. For the same reason they limited its administration only to those bereft of their senses.

This opinion found weighty support in such pre-Code theologians as Gury, Kern and Lehmkuhl. Gury cautioned that it be administered only *secretly*, lest scandal arise.<sup>120</sup> Kern permitted it only to those heretics who regard Extreme Unction as a sacrament.<sup>121</sup> Lehmkuhl restricted its administration to those in good faith.<sup>122</sup>

In the period immediately preceding the Code, a more tolerable attitude toward non-Catholics began to appear with regard to their attendance at our divine services. This mitigation came about not by law but by custom.<sup>123</sup> D'Annibale believed the *tolerati* could attend our sacred services to the end without sinning at all, or only lightly.<sup>124</sup> Lehmkuhl went further. According to him this prohibition

<sup>119</sup> Lehmkuhl, *Theologia Moralis*, II, n. 298.

<sup>120</sup> Gury, *Casus Conscientiae* (editio 1902), nn. 625-626.

<sup>121</sup> Kern, Josephus, S.J., *De Sacramento Extremae Unctionis Tractatus Dogmaticus* (Ratisbonae: 1907), p. 317.

<sup>122</sup> Lehmkuhl, *Theologia Moralis*, II, n. 716.

<sup>123</sup> Cf. Hyland, *Excommunication*, pp. 55-56.

<sup>124</sup> D'Annibale, J., *Summula Theologia Moralis* (3 vols., Romae: Desclée, 1908), I, n. 362, nota 19.

ceased to exist. The Church not only permits their presence, but even desires it, so that they may be led to know the true faith through their admiration of the liturgy.<sup>125</sup>

ARTICLE VI — THE DECISIONS OF THE SACRED CONGREGATIONS  
AND THE PRESENT CODE

There is no general prohibition in the Code of Canon Law forbidding non-Catholics to participate in Catholic worship. While Canon 1258 explicitly forbids Catholics to participate in non-Catholic services, the Code does not formulate a similar prohibition for our phase of communication. Through individual canons the Code has provided a certain amount of canonical legislation for particular cases. Canon 731, §2 declares non-Catholics may not receive the sacraments, Canon 765 forbids them to act as sponsors at Baptism, Canon 795 forbids the same for Confirmation, Canon 1102 excludes all sacred rites from mixed marriages (unless the Ordinary allows one or the other), but Canon 1149 allows blessings to be conferred upon them, provided no prohibition of the Church forbids it.

The scanty legislation of the Code is supplemented by many and various decisions of the Sacred Congregation of the Holy Office, the Sacred Congregation for the Propagation of the Faith, and the Sacred Congregation of the Sacraments. Among these decrees, the one issued by the Holy Office on June 22, 1859, stands out. In a general way, this decree sums up why non-Catholics are forbidden to take an active part in our worship:

Communication with heretics is possible either in condemned doctrine or in sacred things authorized by false sects with scandal to the faithful. The Church therefore condemns communion with them lest faith either be lost altogether or seriously endangered. Hence St. John the Evangelist severely commands: If anyone comes to you and does not profess this doctrine, do not receive him in your home and do not say "Welcome" to him, for he who says "Welcome" shares in their evil works. Obviously from these words, whatever a "Welcome" of this kind expresses is inferred as forbidden, in so far as they are liturgical actions which were instituted to signify ecclesiastical unity. We read therefore that it was forbidden by the Fathers at the Council of

<sup>125</sup> *Theologia Moralis*, II, n. 1136.

Carthage to pray and chant psalms with heretics, to which Benedict XIV refers in *De Synodo, c. V, lib. IV*. It is illicit therefore in sacred functions to invite heretics to choir, to sing psalms alternately with them, to give them the *pax*, blessed ashes, blessed candles and palms, and other similar things of external cult, which are considered to signify rightly and justly as indicative of an external bond and agreement, both in the active sense, namely, by giving such things to them, and in the passive sense, by receiving such things from them in their functions. For in both cases it would be the same as saying "Welcome" to them, and partaking of their evil works.<sup>126</sup>

Communication with rites or signs constitute a danger to our faith. To allow them to participate in our worship is tantamount to saying "Ave" to unbelievers—which the Apostle St. John severely forbids. Hence, such participation is especially forbidden because it may give non-Catholics the impression that unity and agreement in religious profession exist between them and ourselves.

Because of the gradual disappearance of the *mala fides* element among heretics and schismatics, the Church has been increasingly more favorable toward non-Catholics. Her doctrine on *communicatio in sacris* has remained intact; it is the non-Catholics who have changed. In former times, when heretics and schismatics were more obstinate and malicious, the Church had boldly-drawn lines of demarcation against any participation of non-Catholics in Catholic worship. It has been her policy to inflict severe censures and prohibitions where heretics and schismatics are openly rebellious against her. In mission lands, where religious controversies are less known, her leniency has been more noticeable.

This leniency is apparent in the various parts of Catholic worship. In his pre-Code edition Genicot cites several authors who hold that the Church has taken a milder attitude toward non-Catholics. For instance, the assistance of non-Catholics at our services is no longer prohibited as in times past. In fact, the Church, rather than have them removed, invites them to frequent our services, since by such attendance they are frequently converted to the Catholic faith.<sup>127</sup>

<sup>126</sup> S. C. S. Off.. 22 iunii 1859—*Coll. S. C. P. F.*, n. 1176.

<sup>127</sup> Cf. Genicot, Eduardus, *Theologiae Moralis Institutiones* (5. ed., 2 vols., Lovanii: Typis et Sumptibus Polleunis et Ceuterrick, 1905), II, n. 584.

The same lenient attitude appears with regard to the sacramentals. Even the Code allows blessings to be given to non-Catholics to obtain the light of faith or, together with it, bodily health. Canon 1149 does not go into detail on the matter. It only lays down the general rule that blessings may be given to catechumens and, unless the Church forbids it, to non-Catholics also.

In her legislation on the sacramentals, the Code discriminates between Catholics and non-Catholics. To non-Catholics she permits them under the condition "*nisi obstat prohibitio ecclesiae.*" This places non-Catholics under restrictions contained elsewhere, either in the Code itself or in the decrees of the Sacred Congregations. In the Code there is the positive prohibition of Canon 1102, §2, which excludes them from the nuptial blessing, and the one on Canon 1240, §1, which deprives them of Christian burial. The penalty of Canon 2260, §1 would exclude them from the general concessions of Canon 1149, if a declaratory or condemnatory sentence is pronounced against them. Only the favor of Exorcism remains open for these latter.

It can be gathered from the tenor of Canon 1149 that the Code desires the pre-Code legislation on the sacramentals to remain in effect, unless there is new legislation to the contrary.<sup>128</sup> In the light of this background moral theologians make their interpretations. In treating of the various sacramentals, they refer to the many decisions of the Sacred Congregations. These decrees, in so far as they are interpretations of the natural and divine positive law, retain their force. They are not so much ecclesiastical laws as they are declarations of the natural and divine law.<sup>129</sup> Very often the decisions remind us of this fact by declaring explicitly that *communicatio in sacris* is forbidden by the natural and divine law.<sup>130</sup>

The Church can afford to be more liberal with the sacramentals, because they are hers by reason of institution, and upon her the

<sup>128</sup> In virtue of Canon 6, §6 of the Code, the disciplinary laws regarding the liturgy hitherto in force, are to retain their force, as are also the divine laws, positive or natural.

<sup>129</sup> Cf. Noldin-Schmitt, *Summa Theologiae Moralis*, II, n. 37; Merkelbach, *Summa Theologiae Moralis*, I, n. 753.

<sup>130</sup> Cf. Instr. S. C. de Prop. Fide, 1729 (Pro Missionariis Orientis)—*Coll. S. C. P. F.*, n. 311.

efficacy they produce depends. If she withholds them from non-Catholics, it is because her children alone have a right to them. They are "in favorem praecipue saltem membrorum ecclesiae."<sup>131</sup>

Non-Catholics should not be given the impression that they possess a right to the sacramentals.<sup>132</sup> The Church reserves the right to enlarge or restrict any concession, whenever and wherever she deems such action favorable to her sacred mission. Whenever favorable circumstances are found to extend her mission of saving souls, she allows her sacramentals to be conferred upon non-Catholics as means through which spiritual as well as temporal blessings will descend upon them. The decrees of the Sacred Congregations of the Holy Office and for the Propagation of the Faith evidence this fact. Whenever she excludes them from the sacramentals, for instance, in the course of the public functions, it is because of the concomitant evils which ordinarily follow in the wake of communication in public worship.

At first sight a certain amount of inconsistency seems to exist among the decrees of the Holy See. But further survey removes this doubt. Underlining these decisions is the general doctrine: Active participation in Catholic worship is ordinarily forbidden. Grave reasons, however, persuade the Church at times to tolerate participation up to a certain point, provided there is no danger of scandal or perversion.<sup>133</sup>

Whenever the Holy See permits non-Catholics to participate in our worship, the principle employed is analogous to the one which governs the passive, or material, assistance of Catholics at non-Catholic services. Participation is tolerated for sufficiently grave reasons, provided no danger of scandal or perversion is involved. For the participation of Catholics in non-Catholic services this principle justifies nothing more than passive assistance. Under similar conditions it may justify both passive and active participation of non-Catholics in Catholic worship, whenever there is no intrinsic evil in their action.

<sup>131</sup> Arendt, G., *De Sacramentalibus — Disquisitio Scholastico-Dogmatica* (Romae: 1900), p. 396.

<sup>132</sup> Cf. Abbo-Hannan, *The Sacred Canons*, II, p. 421.

<sup>133</sup> Cf. J. McCarthy, "The Participation of Non-Catholics in Catholic Ceremonies"—*The Irish Ecclesiastical Record*, LXXVI (1951), 414-416.

Canon 87 of the Code declares that the Sacrament of Baptism gives a human being personality in the Church of Christ with all the rights and duties of a Christian, unless as to the rights there is no obstacle interfering with the bond of ecclesiastical union. But heresy and schism are juridical obstacles, which make it impossible for heretics and schismatics to receive the Sacraments. Hence, Canon 731, §2 prohibits administering the Sacraments to them unless they abjure their errors and become reconciled to the Church.

Moral theologians give a wide interpretation to this Canon. They believe that the Code has no intention of applying this prohibition to all dying non-Catholics in danger of death. The fundamental principles of charity and mercy, upon which the whole sacramental system is based, urge that the general disciplinary law be relaxed in favor of some dying non-Catholics.

## CHAPTER THREE

### NON-CATHOLICS AND THE SACRAMENTS

#### ARTICLE I — BAPTISM

To receive the other sacraments validly one must be baptized. Baptism marks the essential distinction between those *capable* and those *incapable* of receiving the other sacraments validly. For this reason the Code of Canon Law calls Baptism, "Sacramentorum ianua et fundamentum."<sup>1</sup> It is of primary importance to know whether a person is baptized or not. If the fact or the validity of his baptism is doubtful, before any other sacrament may be given to him, the doubt must be settled or he must be baptized conditionally.

Not only infidels, but many of the so called Protestants of our country, if they enter the Catholic Church, must be baptized before any other sacrament may be administered to them. The Holy See, with respect to marriages, decreed that the baptism of the Disciples of Christ, the Presbyterians, the Congregationalists, the Baptists, the Methodists, is not to be presumed invalid by way of general principle. If a member of one of these sects desires to enter the Catholic Church, his baptism is to be considered valid, unless the contrary is proved.<sup>2</sup> If after diligent inquiry reasonable doubt remains concerning the validity of his baptism, he is to be baptized conditionally. Even the Anglican Ritualists, though they as a rule baptize with care, rarely provide certainty of valid Baptism, hence they also should usually be baptized conditionally.

*Schema:*

A. *Outside the danger of death:* Baptism may not be administered to an adult who does not explicitly desire it.

<sup>1</sup> Canon 737.

<sup>2</sup> S. C. S. Off., 21 decembris 1949—AAS, XLI (1949), 650; also cf. Bouscaren, T. Lincoln, *Canon Law Digest* (Milwaukee: Bruce, 1954), III, p. 423. Although this decision was concerned with the validity of Baptism with regard to matrimonial cases, we believe, as a norm, it can likewise serve to evaluate the validity of their Baptism for other cases.

B. *In danger of death:*1. *If he is conscious —*

- (a) and desires Catholic baptism, there is no difficulty. He must be instructed in the mysteries of the faith to be believed *necessitate medii*, as much as time will prudently allow. He should also be assisted to elicit an act of sorrow for his sins.
- (b) and refuses to be baptized, he may not be baptized. But such a one should be encouraged to elicit an act of faith in the four basic truths of Christianity, and be helped to make an act of contrition.

*If he is unconscious —*

- (a) and had given positive signs of wanting to be baptized, he is baptized *sub conditione*.
- (b) and had given no positive signs, but lived a good life, or is known to be sorry for his sins and desires all that is necessary for salvation, he may be baptized conditionally.
- (c) reliable moralists permit baptizing conditionally one in this critical hour who previously resisted conversion or about whom nothing is known. God probably grants illuminating graces to such ones in this supreme hour.

A. *Outside the Danger of Death*

Adult non-Catholics who are not in the danger of death may not be baptized unless they desire it. This is in conformity with the first part of Canon 752, which prescribes that outside the danger of death: An adult shall be baptized only when he desires it with the understanding of what he seeks and he has acquired an adequate knowledge of the faith; moreover, he must be admonished to make an act of sorrow for his sins.<sup>3</sup>

A full course of instructions must be given to an adult convert before conferring baptism upon him. Nothing short of extreme necessity will dispense from this requisite. Our Divine Master commanded his Apostles to first teach, and then baptize.<sup>4</sup> If the non-Catholic has never been baptized, or if the nullity of his former baptismal ceremony is certain, he is to be baptized absolutely.

<sup>3</sup> Canon 752, §1: Adultus, nisi sciens et volens probeque instructus, ne baptizetur; insuper admonendus ut de peccatis suis doleat.

<sup>4</sup> Matt. 28:19.

Neither the abjuration of heresy nor the confession of sins is required of such converts. But he must be led to make an act of sorrow for his sins, without which not even baptism can wipe away his personal sins. Baptism remits not only original sin, but with attrition, also actual sins, and makes the neophyte fully worthy to receive the other sacraments.<sup>5</sup>

If the non-Catholic is a heretic, and the validity of his baptism is doubtful, he is to be baptized conditionally. But first he must abjure heresy, make a profession of faith, and be baptized conditionally, and then confess his sins and be absolved conditionally before he can receive any of the other sacraments.<sup>6</sup>

### B. In Danger of Death

#### 1. Conscious

If a priest encounters a dying non-Catholic, still conscious and in possession of his faculties, but who has never been baptized, before he can baptize him the priest must be certain that the dying person desires it. As much instruction on the mysteries of the faith to be believed *necessitate medii*, i.e., that God exists, that he rewards the good and punishes the evil, the Mystery of the Incarnation, and the Mystery of the Blessed Trinity, must be given them as time will prudently allow. The *moribundus* must be helped to elicit an act of sorrow for his sins. Whenever possible, the same preliminary requisites are to be followed in the case of dying conscious non-Catholics as for those outside the danger of death.

If the dying person has the intention to be baptized, but cannot be instructed in the principal mysteries of our faith, he may be baptized, provided he assents in some way to these truths, and promises to observe the precepts of the Christian faith.<sup>7</sup> In extreme cases, in view of Canon 752, §2 and a decree of the Holy Office,<sup>8</sup>

<sup>5</sup> Cf. Fanfani, *Manuale Theologiae Moralis*, IV, n. 75 sub B.

<sup>6</sup> Prümmer, *Manuale Theologiae Moralis*, III, n. 138.

<sup>7</sup> Canon 752, §2: In mortis autem periculo, si nequeat in praecipuis fidei mysteriis diligentius instrui, satis est, ad baptismum conferendum, ut aliquo modo ostendat se eisdem assentire serioque promittat se christianae religionis mandata servaturum.

<sup>8</sup> S. C. S. Off., 18 sept. 1850—*Coll. S. C. P. F.*, n. 1050.

such signs as nodding of the head, or a simple "yes" sufficiently indicate the *moribundus* desires baptism, especially if he expressed such a desire before he lapsed into the imminent danger of death.

If the dying non-Catholic refuses to be baptized, the priest should help him to elicit acts of faith in the truths to be believed *necessitate medii*. Belief in these basic truths, which we have enumerated above, is considered necessary for salvation. The priest must not forget to help the dying person elicit an act of contrition.

All those about to be baptized must have the intention of joining the Catholic Church.<sup>9</sup> A non-Catholic may not be baptized if he desires to receive the rite as a means of affiliation with an heretical sect. To baptize him as a Methodist or a Presbyterian while he is still conscious would undoubtedly give the impression that one Christian faith is as good as another. If the dying non-Catholic does not explicitly desire to become a Catholic, but simply wishes to be a Christian without at present explicitly affiliating himself to any particular Christian sect, he may be baptized, provided he accepts the essential truths of Christianity and is resolved subsequently to seek the true form of Christianity in so far as he is able. It is presumed that at the moment there is not sufficient time for further instruction.<sup>10</sup>

## 2. Unconscious

Non-Catholics, who are known to have expressed some desire for baptism before lapsing into unconsciousness, do not offer any difficulty. According to a decree of the Holy Office, issued March 30, 1898, it was permitted to baptize *sub conditione* adult Mohammedans who were destitute of their senses, but had previously shown signs of wanting to be baptized.<sup>11</sup>

In view of this decree and Canon 752, §3, Prümmer<sup>12</sup> maintains it is forbidden to confer baptism conditionally upon a dying un-

<sup>9</sup> Cf. Ramstein, Matthew, *Manual of Canon Law*, p. 409; also S. C. S. Off., 27 Jan. 1892—*Coll. S. C. P. F.*, n. 1780.

<sup>10</sup> Cf. Connell, "Communication With Non-Catholics In Sacred Rites"—*AER*, CXI (1944), 179.

<sup>11</sup> *Coll. S. C. P. F.*, n. 1993.

<sup>12</sup> *Manuale Theologiae Moralis*, III, n. 135.

conscious non-Catholic unless he had previously given some *positive* sign of wanting to be baptized. Accordingly, the above decree permits baptism to be conferred, not on every dying unconscious Mohammedan, but only upon those who had earlier manifested some sign that they desire baptism. The Code prescribes: "If an adult can no longer ask for baptism, but has, either previously or in his present condition, in some probable way manifested his intention of receiving it, he should be baptized conditionally; if later he recovers and doubt remains concerning the validity of the baptism conferred, baptism shall again be administered conditionally."<sup>13</sup> Furthermore, the third part of Canon 752 supposes the dying unconscious non-Catholic to have earlier expressed the intention to receive baptism, and expressed it *aliquo probabili modo* — that is, in some probable way; otherwise he cannot be baptized even *sub conditione*.

In an article written for *The Homiletic and Pastoral Review*, Prümmer stated that it is contrary to the decisions of the Holy See and the Code of Canon Law to baptize every unconscious dying non-Catholic by appealing to God's universal will of salvation, or to the fact that he had previously led a good life. These considerations furnish no probable sign of the necessary intention to receive baptism.<sup>14</sup> Fanfani agrees with Prümmer that the good life which the non-Catholic may have led does not sufficiently bespeak of an implicit intention to receive baptism. The one baptizing must have moral certainty the dying unconscious non-Catholic esteemed and had interest, *propensionem*, in the Christian religion.<sup>15</sup>

Perhaps the lenient opinion is less in conformity with the decisions of the Holy See. But, because it is upheld by such notable theologians as Vermeersch,<sup>16</sup> Lehmkuhl,<sup>17</sup> Genicot-Salsmans,<sup>18</sup> Cap-

<sup>13</sup> Canon 752, §3: Quod si baptismum ne petere quidem queat, sed vel antea vel in praesenti statu manifestaverit *aliquo probabili modo* intentionem illum suscipiendi, baptizandus est sub conditione; si deinde convalescit et dubium de valore baptismi collati permaneat, sub conditione baptismus rursus conferatur.

<sup>14</sup> "Conditional Administration of Sacraments to Dying Non-Catholics"—*The Homiletic and Pastoral Review*, XXX (1929), 239.

<sup>15</sup> *Manuale Theologiae Moralis*, IV, n. 74.

<sup>16</sup> *Theologia Moralis*, III, n. 243.

<sup>17</sup> *Theologia Moralis*, II, n. 78.

<sup>18</sup> *Theologiae Moralis Institutiones*, II, n. 149.

pello,<sup>19</sup> Iorio,<sup>20</sup> Sabetti-Barrett<sup>21</sup> and Davis,<sup>22</sup> it may be safely followed in practice as a probable opinion until the Holy See decrees otherwise.

Vermeersch says in large cities where so many so-called Christians are not baptized, a priest may confer baptism conditionally on an unknown *moribundus* who is bereft of his senses before granting him conditional absolution. Even in pagan lands, provided scandal is removed, this celebrated moralist and canonist would confer baptism conditionally on a dying pagan bereft of his senses. The necessity of baptism is so great that he considers sorrow for one's sins and the desire to do what is necessary for salvation as sufficient in these extreme cases to confer baptism conditionally.

Lehmkuhl is of the opinion that even those who may have previously resisted conversion may in this critical hour be baptized conditionally. God probably grants illuminating graces to the dying, enabling them to desire baptism.

Cappello ascribes his name to this group by making the views of Lehmkuhl and Genicot his own. He makes this conjecture from the case where a missionary encounters a dying pagan, bereft of his senses. Because (1) God wishes all men to be saved, and (2) brought the missionary to the side of the dying pagan, there is some hope to believe the pagan has the necessary dispositions for baptism.

What Cappello holds for mission lands, Fr. Connell believes is applicable in a so-called Christian country as ours. An opinion supported by such renowned theologians, gives sufficient probability to conditionally baptize any dying person, completely unconscious, of whose religious status nothing is known because, as Fr. Connell adds, this argument is based upon the law of averages: there is some probability that every unknown individual is an unbaptized person who either explicitly or implicitly desires baptism.<sup>23</sup> In fact, non-

<sup>19</sup> Cappello, Felix, *Tractatus Canonico-Moralis De Sacramentis* (3 vols., Romae: Marietti, 1935-1945), I, n. 159 (hereafter cited *De Sacramentis*).

<sup>20</sup> *Theologia Moralis*, III, n. 64.

<sup>21</sup> *Compendium Theologiae Moralis*, n. 622.

<sup>22</sup> *Moral and Pastoral Theology*, III, p. 54.

<sup>23</sup> "The Hospital Chaplain And The Administration Of Baptism And Penance"—*AER*, CXVIII (1948), 258.

Catholics in our country are in a more favorable condition than those in mission lands because they are not completely ignorant of the sacrament of baptism. Not a few of our countrymen are unfortunately invalidly baptized, while many, who have never received this rite, have learned of its necessity for salvation from those with whom they associate.

Lest the more lenient view be indiscriminately applied to laymen, and thereby give others the impression that Baptism is a kind of infallible charm, which will save anyone whatever his personal dispositions, Fr. Connell offers the following practical advice:

It must, of course, be understood that we are abstracting from cases in which the conferring of sacraments on an unknown dying person would cause scandal and would lead the Catholic religion into disrepute. On this account, even for a priest who holds the more lenient view, it might be advisable to give doctors and nurses a more restricted norm in regard to baptizing dying persons — namely, that the sacrament should be given only when the dying person has at least probably manifested some definite wish.<sup>24</sup>

## ARTICLE II — PENANCE AND EXTREME UNCTION

From the beginning it is necessary to divide heretics and schismatics into two groups, i.e., those who are not in the danger of death and those who are in the danger of death. Not all admit the need for this distinction. There are a few who maintain that under no circumstances may the sacraments be administered lawfully to heretics or schismatics. Augustine seems to be of this opinion.<sup>25</sup> Their axiom is: *Ubi lex non distinguit, neque nos distinguere debemus*.<sup>26</sup> In view of Canon 731, §2, there is no doubt this prohibition is absolute in the case of those non-Catholics who are not in the danger of death.<sup>27</sup> As for those who are in the danger of death,

<sup>24</sup> "Administration Of Baptism To Unknown Dying Persons"—*AER*, CXII (1945), 392.

<sup>25</sup> *A Commentary on Canon Law*, IV, pp. 21-22.

<sup>26</sup> Cf. P. O'Neil, "The Administration of the Sacraments to Heretics"—*The Irish Ecclesiastical Record*, XLVI (1935), 523-527.

<sup>27</sup> Cf. Vermeersch, *Theologia Moralis*, III, n. 195; Woywod-Smith, *Practical Commentary*, I, n. 625.

several decisions of the Holy Office, as well as the teaching of reliable moralists and canonists, show that Canon 731, §2 admits exceptions.

This division of heretics and schismatics into those in danger of death and those not, appeared already in manuals of Moral Theology in the pre-Code period. Previous to the Code several authors allowed with varying liberality the administration of sacramental absolution and Extreme Unction to dying non-Catholics in good faith — especially to the unconscious.

Billot does not believe that such an exception involves *communicatio in sacris*; rather, it is simply succoring our neighbor who is in extreme necessity. Ordinarily ecclesiastical law excludes them from the sacraments. But ecclesiastical law does not bind beyond limits proper to human law. It does not intend to oblige with a disproportionate penalty. Therefore, there are certain cases in which the effect of excommunication is suspended so that the sacraments can be licitly administered to heretics and schismatics.<sup>28</sup>

#### Schema:

A. *Outside the danger of death*: The sacraments may not be administered to a heretic or schismatic, unless he first renounces his errors and is reconciled to the Church.

#### B. *In danger of death*

##### 1. *If he is conscious* —

- (a) and there is *some* hope of inducing him to embrace the Catholic faith, and there is no danger of disturbing his good faith, the priest should prudently urge him to do so.
- (b) and there is *no* hope of inducing him to embrace the Catholic faith, the priest should help him to elicit acts of faith, hope, charity and contrition. If he is thought to be in good faith, the priest may absolve him secretly and conditionally.

2. *If he is unconscious*: The sacraments may be administered to him, provided there is reason to suppose he would accept the services of a priest if he knew it was necessary.

<sup>28</sup> *De Ecclesia Christi*, th. XII, p. 308.

## A. Outside the Danger of Death

In plain and unequivocal terms, Canon 731, §2 forbids the administration of the sacraments to heretics and schismatics, unless they make their abjuration and are reconciled with the Church:

Vetitum est Sacramenta Ecclesiae ministrare haereticis aut schismaticis, etiam bona fide errantibus eaque petentibus, nisi prius, erroribus reiectis, Ecclesiae reconciliati fuerint.

This rule allows no exception, at least with reference to those who are in good health. Even those who have not reached their fourteenth birthday, if it is foreseen that they will be heretics or schismatics after that age, they also must be refused the sacraments.<sup>29</sup>

Vermeersch calls our attention to the fact that heretics and schismatics are forbidden to receive the sacraments, not, as some believe,<sup>30</sup> because they are unworthy, but precisely because they do not belong to the Catholic Church. The penalty levied against them does not proceed from the general principle: the sacraments are to be denied the unworthy. Rather, heretics and schismatics are excluded from the sacraments for the very reason that they are separated from the Church, which possesses the sacraments as her very own for her own. To say that they are to be denied them because they are unworthy is less accurate. There are many among them who err in good faith. These can be more worthy than some Catholics to whom the sacraments are given.<sup>31</sup>

If they are formal heretics or schismatics i.e., those who err in bad faith, there is no doubt that they are in no position to receive the sacraments. Because they deliberately persist in their errors, they are, as such, unworthy to receive the sacraments.

Even material heretics or schismatics, or those who are in good faith, are also to be excluded from the sacraments. Lest there be any doubt about these, the Canon is quite clear in its prohibition: "etiam bona fide errantibus eaque petentibus." Noldin-Schmitt

<sup>29</sup> Vermeersch, *Theologia Moralis*, III, n. 195.

<sup>30</sup> Cf. Prümmer, *Manuale Theologiae Moralis*, III, n. 79; Fanfani, *Manuale Theologiae Moralis*, IV, n. 36.

<sup>31</sup> *Loc. cit.*

say these latter are cut off from the sacraments in order to avoid giving scandal to others: Catholics would lose all horror for heresy and heretics would be confirmed in their errors.<sup>32</sup> And Davis reasons that material heretics are equally to be refused the sacraments because they do not acknowledge the Church *de facto* and are not members of the Mystical Body of Christ.<sup>33</sup>

The prohibitions against administering the sacraments to formal or material heretics and schismatics, outside the danger of death, is uncompromisingly upheld by several decisions of the Sacred Congregations. The Congregation of Propaganda obliged Greek schismatics explicitly to affirm their allegiance to the supremacy of the Holy Father before they can be granted absolutely.<sup>34</sup> Two decrees of the Holy Office, one dated August 28, 1669<sup>35</sup> and the other May 15, 1709,<sup>36</sup> forbade administering the Sacrament of Penance to Nestorians. When, on a later occasion, the Holy Office was asked whether Greek schismatics could passively assist at our services, it replied in the affirmative, provided they were given no sacraments, did not communicate *in sacris*, and were not invited thereto.<sup>37</sup> On July 30, 1806, the Holy Office decreed that schismatic soldiers who accompanied Catholics to our services were to be refused participation in our sacraments, unless they had given sufficient proof that they had abjured heresy and had returned to the true fold.<sup>38</sup>

An interesting case was proposed to the Holy Office on July 20, 1898. Agatha, a well meaning schismatic, had gone to confession to Boniface, a Catholic missionary laboring among Oriental schismatics. During the course of her humble and sincere confession, Boniface learned that she did not belong to the Catholic Church. After cautiously questioning her about her schism, he found her to be ignorant and disinterested in the problem. Because she urgently pleaded for absolution so that she might go to Holy Communion on the morrow in her schismatical church, Boniface absolved Agatha.

<sup>32</sup> *Summa Theologiae Moralis*, III, n. 297.

<sup>33</sup> *Moral and Pastoral Theology*, III, p. 34.

<sup>34</sup> *Coll. S. C. P. F.*, n. 156 ad 2.

<sup>35</sup> *Coll. S. C. P. F.*, n. 185 ad 1.

<sup>36</sup> *Coll. S. C. P. F.*, n. 276.

<sup>37</sup> *S. C. S. Off.*, 22 sept. 1763—*Coll. S. C. P. F.*, n. 450.

<sup>38</sup> *Coll. S. C. P. F.*, n. 688.

Hence, the question was asked: whether material schismatics in good faith may be sometimes absolved? The Holy Office replied: Since scandal cannot be avoided, in the negative; except when in danger of death, and then with scandal effectually removed.<sup>39</sup> In the Code, this decree is cited as one of the sources which are meant to illustrate Canon 731, §2.

### *B. In Danger of Death*

#### *1. Conscious*

A non-Catholic who is *willing* in the hour of death to embrace the Catholic Faith offers no difficulty. Any priest can grant absolution from excommunication and administer the last sacraments to a penitent heretic or schismatic, who in his last moments desires to enter the Church. The priest must first instruct him in the basic truths of our religion, and make him elicit a profession of faith. The profession of faith should be made before two witnesses and taken down in writing and signed. Then the dying man should be assisted in making acts of faith, hope and charity, confession of his sins, contrition and purpose of amendment. If the non-Catholic who is willing to embrace the Catholic has never been baptized, or only doubtfully so, before all else he must be baptized, either absolutely or conditionally. If he has never been baptized, baptism is administered absolutely. Neither confession of sins nor sacramental absolution is necessary. However, he must be instructed in the basic truths of our faith and made to elicit at least an act of attrition, without which not even baptism will justify him. In the case of doubtful baptism, (and there are many such cases), baptism is administered conditionally, but not before the sick person has gone through the same preliminaries outlined above for the heretic and schismatic. He, as they, must first confess his sins, and be absolved both from excommunication and from sin, before Extreme Unction, Holy Viaticum and the last blessing are given to him. Confession of sins and sacramental absolution must be included in the case of the doubtfully baptized, because of the probability that he is really bap-

<sup>39</sup> *Coll. S. C. P. F.*, n. 2012.

tized, in which case the Sacrament of Penance would justify him.<sup>40</sup>

It is the *unwilling* dying non-Catholic who offers difficulty. Theologians dispute as to what can be done in the way of sacramental absolution for dying heretics or schismatics who are in good faith and still conscious. Some forbid, while others permit absolving him.

As Noldin notes,<sup>41</sup> St. Alphonsus was not alone in denying that absolution could be given to a dying heretic unless he expressly asks for it. Agreeing with Holzmann, St. Alphonsus taught a heretic ought not to be absolved, even though he emits some signs of sorrow, because a heretic, as such, can never be prudently presumed to make these signs with a view to confession, which he abhors.<sup>42</sup> The main reason for the refusal is the absence of the intention; for we may not prudently presume that the signs given, have any reference to a sacrament which heretics greatly detest during life. Aertnys-Damen would deny them absolution because velleity as such does not suffice: “. . . quia voluntas conditionalis confitendi non est reapse confessio, atque adeo prorsus deesse videtur materia.”<sup>43</sup> According to Merkelbach, the most a priest can do for such one is to help him elicit acts of faith, hope, charity, and contrition.<sup>44</sup> Prümmer avoids the issue in his *Manuale*,<sup>45</sup> but in an article written for *The Homiletic and Pastoral Review*,<sup>46</sup> he leaves no doubt that he is for the strict opinion.

The majority of recent theologians hold a conscious dying non-Catholic may be *secretly* and *conditionally* absolved, provided he is in good faith and has given signs of sorrow for his sins. Although

<sup>40</sup> Cf. Fanfani, *Manuale Theologiae Moralis*, II, nn. 33, 34; Schieler-Heuser, *Theory and Practice of the Confessional*, p. 560.

<sup>41</sup> Cf. *Summa Theologiae Moralis*, III, n. 295 (11. ed., 1914). This citation is omitted in the latest edition.

<sup>42</sup> Cf. *Theologia Moralis*, Lib. VI, Tract. IV, n. 483.

<sup>43</sup> Aertnys, J.—Damen, C. A., *Theologia Moralis secundum doctrinam S. Alphonsi de Ligorio, Doct. Ecclesiae* (16. ed., 2 vols., Romae: Marietti), II, n. 196 (hereafter cited *Theologia Moralis*).

<sup>44</sup> *Summa Theologiae Moralis*, III, n. 653.

<sup>45</sup> *Manuale Theologiae Moralis*, II, n. 80.

<sup>46</sup> “Conditional Administration of Sacraments to Non-Catholics”—*The Homiletic and Pastoral Review*, XXX (1929), 234-241.

this group does not claim the weighty support of St. Alphonsus, it includes such notable moralists as Reuter,<sup>47</sup> Lehmkuhl,<sup>48</sup> Noldin,<sup>49</sup> Vermeersch,<sup>50</sup> Genicot-Salsmans,<sup>51</sup> Arregui,<sup>52</sup> Iorio,<sup>53</sup> Piscetta-Genaro<sup>54</sup> and Davis.<sup>55</sup> The solution, given by Noldin in an earlier edition, is typical.

A dying non-Catholic, still conscious, who cannot, because of peculiar circumstances, be warned about conversion to the Catholic faith, is lawfully absolved secretly *sub conditione*, after due preparation (*praemissis praemittendis*), provided he is prudently considered a material heretic, who is living outside the Catholic Church in good faith.<sup>56</sup>

The usual *praemissis praemittendis*, outlined by Noldin, are not unlike those required by the other supporters of this opinion:

Before administering absolution, the confessor should see to it that he elicits acts of faith, hope, charity and contrition with the dying person. The act of faith with regard to the articles to be believed absolutely (*necessitate medii*), should be explicit, as for those to be believed under precept (*necessitate praecepti*), it should be implicit. He should persuade the dying person to acknowledge himself a sinner before God and man. Finally he should have him declare he would like to be assisted by a priest as much as possible to obtain eternal life, or at least he would like to do everything which Christ has commanded as necessary for salvation.<sup>57</sup>

Precisely because of these dispositions, the dying non-Catholic warrants conditional absolution. Because he is in extreme spiritual

<sup>47</sup> *Neo-Confessarius*, n. 203.

<sup>48</sup> *Theologia Moralis*, II, n. 515.

<sup>49</sup> *Summa Theologiae Moralis*, III, n. 297.

<sup>50</sup> *Theologia Moralis*, III, n. 599.

<sup>51</sup> *Institutiones Theologiae Moralis*, II, n. 264.

<sup>52</sup> Arregui, A. M., *Summarium Theologiae Moralis* (13. ed., Romae: Deposito Libri Della Pont. Università Gregoriana, 1937), n. 589.

<sup>53</sup> *Theologia Moralis*, III, n. 372.

<sup>54</sup> *Elementa Theologiae Moralis*, V. n. 95.

<sup>55</sup> *Moral and Pastoral Theology*, III, p. 259.

<sup>56</sup> *Summa Theologiae Moralis*, III, n. 295 (15. ed., 1923).

<sup>57</sup> *Ibidem*.

necessity, the sacrament may be administered to him, even though its validity is doubtful. Through his desire to do all that God has ordained for attaining salvation, he manifests the implicit intention of wanting to receive absolution. His sorrow and his confession, even though general, are believed to be in such cases sufficient for absolution. Being in good faith, he may well have supernatural faith — the faith necessary for salvation.<sup>58</sup>

The absolution should be administered conditionally and by secretly pronouncing the words of the form, not necessarily making the sign of the cross. In fact, the administration should be so secret that not even the *moribundus* should know, lest he be led to believe erroneously that the priest approves his heresy.<sup>59</sup>

It is very improbable that Extreme Unction can be administered to a dying non-Catholic who is still conscious. The nature of its administration is such that it is impossible to administer it secretly to a conscious person. Unlike conditional absolution, the administration of Extreme Unction necessarily involves an external rite that is clearly perceptible, the anointing with holy oil. At least the dying non-Catholic, himself, would become aware of the sacramental rite being administered to him. It can scarcely be given without causing grave scandal. To say with one writer, that it ought to be omitted because it is not a necessary means of salvation,<sup>60</sup> is a less cogent reason.

Particularly in view of these facts, it is difficult to see how Kern and Iorio allow Extreme Unction to be conferred on material heretics and schismatics who are in the danger of death, but still conscious. Kern would administer it to those who acknowledge Extreme Unction to be a Sacrament.<sup>61</sup> Iorio is more liberal. He would administer it to one in good faith and still conscious, provided it can be prudently judged that he has the intention to receive the sacred anointing in so far as it is ordained to benefit the soul

<sup>58</sup> Cf. Cappello, *De Sacramentis*, II, n. 237; Davis, *Moral and Pastoral Theology*, III, p. 35.

<sup>59</sup> Cf. Genicot-Salsmans, *Institutiones Theologiae Moralis*, II, n. 264, nota 4; Schieler-Heuser, *Theory and Practice of the Confessional*, p. 560.

<sup>60</sup> Cf. *The Casuist* (New York: Joseph F. Wagner, 1910), III, n. 43.

<sup>61</sup> *De Sacramento Extremae Unctionis Tractatus Dogmaticus*, p. 317.

at the time of death.<sup>62</sup> Vermeersch does not commit himself, but seems to favor this opinion.<sup>63</sup> The periodical *Apollinaris* carries a review in which the writer permits administering Extreme Unction in these cases if no bystanders are around.<sup>64</sup> In an article written for *The Jurist*, Fr. John J. Danagher favors this opinion even though he admits it is more difficult, but not impossible, to administer it secretly.<sup>65</sup>

We, however, are inclined to believe Extreme Unction should not be administered to dying *conscious* heretics and schismatics in good faith. The nature of its administration forbids it. This, we believe, is also the opinion of those authors, who in these cases insist upon secrecy in administering conditional absolution. To administer Extreme Unction to those who are conscious involves too great a risk of causing indifferentism and scandal.

## 2. Unconscious

Moralists today almost universally teach that conditional absolution may be conferred on a dying heretic or schismatic who is in good faith and is bereft of consciousness. By an *a pari* argument to sacramental absolution, several reliable theologians argue Extreme Unction may also be conferred.

Theologians, who permit the conditional administration of Extreme Unction together with sacramental absolution, rely upon three decisions of the Holy See for the support of their opinion. The first, issued on July 20, 1898, dealt with the Sacrament of Penance alone.<sup>66</sup> Since Extreme Unction is the complement of Penance, Kilker argues by an *a pari* argument that Extreme Unction is also included in this decree.<sup>67</sup> This decree has been quoted and given above.<sup>68</sup> However, more caution would have to be taken in

<sup>62</sup> *Theologia Moralís*, III, n. 765.

<sup>63</sup> *Theologia Moralís*, III, n. 599.

<sup>64</sup> *Apollinaris*, IV (1931), 322.

<sup>65</sup> John J. Danagher, "Administration of the Sacraments to Heretics and Schismatics"—*The Jurist*, XIII (1953), 374.

<sup>66</sup> S. C. S. Off., 20 iulii 1898—*Coll. S. C. P. F.*, n. 2012.

<sup>67</sup> Kilker, Adrian, J., *Extreme Unction* (St. Louis: B. Herder, 1927), p. 129.

<sup>68</sup> Cf. *supra* p. 67.

the administration of Extreme Unction than was stipulated in the decree for Penance. Absolution can easily be given secretly, even in the presence of others; but not Extreme Unction.

In the second decision, dated May 16, 1916, the Holy Office was asked: Whether both absolution and Extreme Unction may be conferred conditionally on dying schismatics, bereft of consciousness. The reply ran:

Under condition *affirmatively*, especially if it can be surmised from the circumstances that they have at least implicitly rejected their errors (*praesertim, si ex adiunctis coniiicere liceat, eos implicite saltem errores suos reiicere*), scandal being removed, by making it known to the bystanders that the Church supposes such to have returned to the unity of faith in their last moments.<sup>69</sup>

Neither in the question nor in the answer of this decision is any distinction made between material and formal schismatics. The reply allows us to deduce that not even an apparent reconciliation in such moments is necessary. The wording "*praesertim si*" implies that absolution and Extreme Unction may be given in those cases where perhaps there are no signs of reconciliation as well as in those where *especially* the signs of reconciliation are surmised as present. In all instances, however, the Holy Office supposes scandal to be removed and the instruction be given to the bystanders that the Church assumes such persons to have returned in their last moments to the unity of Faith.<sup>70</sup>

The third decision which, like the above, is also a private one, was issued on November 15, 1941. On this occasion, the Holy Office was asked by the Apostolic Visitor for the Ukrainians what, in the way of administering the Sacraments, could a priest do for a dying "Orthodox" Christian. It answered:

To those who are in good faith and already deprived of consciousness, the sacraments may be administered conditionally,

<sup>69</sup> S. C. S. Off., 16 maii 1916 (privatim)—cf. Regatillo, Eduardus, R., *Ius Sacramentarium* (2. ed., Santander: Sal Terrae, 1949), n. 23.

<sup>70</sup> Cf. King, James, *The Administration of the Sacraments to Dying Non-Catholics*, The Catholic University of America Canon Law Studies, n. 23 (Washington, D. C.: The Catholic University of America, 1924), p. 81.

especially if (*praesertim si*) there is reasonable ground to conjecture that they have at least rejected their errors. Care must be taken, however, that scandal and even suspicion of interconfessionalism be avoided. And the less danger there is in delay, the more should an explicit retraction of errors and a profession of the Catholic faith be required.<sup>71</sup>

Again we find the "*praesertim si*" construction which allows us a greater breadth of interpretation.

In view of this latest decree, Iorio believes it may be held as certain that absolution and Extreme Unction may be conferred conditionally on schismatics. He goes so far as to say that the reply can be interpreted to include both material and formal heretics.<sup>72</sup>

All three decrees mention only schismatics. Nevertheless, Vermeersch,<sup>73</sup> Coronata,<sup>74</sup> Regatillo,<sup>75</sup> and evidently Iorio,<sup>76</sup> extend the favor of absolution and Extreme Unction to heretics. Prümmer<sup>77</sup> and Davis<sup>78</sup> extend only absolution to heretics. Merkelbach restricts the administration of Extreme Unction and sacramental absolution only to those schismatics and heretics who believe in Extreme Unction and Penance as sacraments.<sup>79</sup> He seems to be more concerned with the Sacrament of Penance, and cautions its administration to heretics because they are especially opposed to this sacrament. Hence in the case of a heretic who does not believe in the Sacrament of Penance, and who, before he lapsed into unconsciousness, asked to be helped by a priest in the same way the priest helps dying Catholics, Merkelbach is of the opinion that it is more difficult to see how

<sup>71</sup> S. C. S. Off., ep. (privat.) ad Visit. Apost. pro Ucrainis, 15 nov. 1941, recorded by Bouscaren, *Canon Law Digest*, III, pp. 299-300. Cf. Regatillo, Eduardus, F., *Interpretatio et Iurisprudentia Codicis Iuris Canonici* (Santander: Sal Terrae, 1949), n. 316.

<sup>72</sup> *Theologia Moralís*, III, n. 372.

<sup>73</sup> *Theologia Moralís*, III, n. 195.

<sup>74</sup> Coronata, Matthaeus, *De Sacramentis* (2. ed., 3 vols., Romae: Marietti, 1947-1951), I, n. 552.

<sup>75</sup> *Ius Sacramentarium*, n. 23.

<sup>76</sup> *Loc. cit.*

<sup>77</sup> *Manuale Theologiae Moralís*, III, n. 80.

<sup>78</sup> *Moral and Pastoral Theology*, III, p. 258.

<sup>79</sup> *Summa Theologiae Moralís*, III, n. 705 sub 5; n. 653.

this is to be understood for Penance than for Extreme Unction.<sup>80</sup> Aertnys-Damen, following the reasoning of St. Alphonsus, deny absolution to heretics who belong to sects which reject the Sacrament of Penance, even though they had given signs of repentance. These signs cannot be presumed to have any reference to sacramental absolution, which the heretic detests. Aertnys-Damen, who quote the decision of the Holy Office issued in 1916, remind us that, notwithstanding the prescriptions of Canon 731, §2, it must not be supposed the Code meant to derogate from such a recent reply.<sup>81</sup>

Dying non-Catholics, bereft of their senses, about whom little or nothing is known, or who are known to have rejected the administrations of the priest before lapsing into unconsciousness, may offer greater difficulty. However, in view of the fact that the majority of the non-Catholics in our land are in good faith and are not entirely ignorant of our sacramental system, the presumption is ordinarily in their favor so that the sacraments may be administered to them. But the following preliminary principle must be observed: Wherever there is the slightest doubt that the non-Catholic has not been validly baptized, Baptism must be administered to him *sub conditione*, if possible, before administering Penance and Extreme Unction.<sup>82</sup>

It is Prümmer's opinion that conditional absolution not only may, but must be administered to every dying baptized adult non-Catholic who is destitute of his senses, provided he has not manifestly repudiated this sacrament.<sup>83</sup> Even though he refuses to see a priest, it does not follow that he does so because he detests the Sacrament of Penance. Seldom, if ever, will a priest have to refuse a dying unconscious heretic or schismatic conditional absolution. In fact, Iorio believes the principle; "Sacramenta propter homines," will justify administering the sacraments to them, as long as there is *tenuis probabilitas* of their administration being valid.<sup>84</sup> Even though their validity may be doubtful, theologians permit administering the sacraments in this supreme hour of need, because they fear one or the

<sup>80</sup> *Summa Theologiae Moralis*, III, n. 653.

<sup>81</sup> *Theologia Moralis*, II, n. 337.

<sup>82</sup> Cf. Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 297.

<sup>83</sup> *Manuale Theologiae Moralis*, III, n. 80.

<sup>84</sup> *Theologia Moralis*, III, n. 372.

other may be in need of sacramental help, without which he cannot be saved.

Iorio reminds us the dying non-Catholic, bereft of consciousness, is better and more securely helped by Extreme Unction than by conditional absolution.<sup>85</sup> It may happen that Extreme Unction is the only sacrament which can save a baptized unconscious non-Catholic who has reached the age of reason and has a mortal sin upon his soul. If he has habitual sorrow for that sin, and now, because he is unconscious, cannot express sorrow for it (and hence cannot furnish an essential factor of the proximate matter of Penance), not Penance, but Extreme Unction would be the sacrament which can save him. Because he was not able to externalize his contrition at the moment of administration, sacramental absolution was of no avail, but Extreme Unction which requires for its fruitfulness only internal contrition can justify him.

In these cases conditional administration ought to be given under the form *si capax es*. This is the surest way to administer the sacraments conditionally. For as long as the sacrament is received validly, if after the administration sufficient disposition, which was lacking for fruitfulness begins to set in, the sacrament would revive. The form *si dispositus es* must not be used. It is only for liceity and the fruitful reception of the sacrament, even though the *moribundus* may be capable (*capax*) of receiving the sacrament for some other reason. If no disposition is *hic et nunc* present, the sacrament is frustrated because the condition upon which it *hic et nunc* depended does not exist in the subject. The *si dispositus* form is more restricted; it does not allow for reviviscence. The *si capax* form is to be preferred; it can make conditional administration valid when the minimum of requirements (those necessary for validity) are present.<sup>86</sup> If the *Ritual* prescribes a particular form for conditional administration of a sacrament, e.g., *si non es baptizatus, si vivis*, it should be added orally. When no such formula is prescribed, the condition may be merely internal.<sup>87</sup>

<sup>85</sup> *Loc. cit.*

<sup>86</sup> Cf. Iorio, *Theologia Moralis*, III, n. 766; Merkelbach, *Summa Theologiae Moralis*, III, n. 705; Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 73.

<sup>87</sup> Fanfani, *Manuale Theologiae Moralis*, IV, n. 21.

## PRACTICAL CONCLUSION

There is sufficient probability to confer on every dying *unconscious* non-Catholic of our land not only baptism but sacramental absolution and Extreme Unction as well. There is no doubt that it is difficult to establish with certain intrinsic arguments the basis upon which this lenient opinion rests. But the extrinsic authority favoring it is so reliable that a priest is justified in following it. As long as the *moribundus* is not known to have positively opposed the Sacrament of Baptism, it may be conditionally administered to him. In other words, what is demanded in such conditional administration is: no positive opposition to a specific sacramental rite.

Beginning with Baptism, it is already the question of intention which confronts the theologian in the chain of such sacramental administration. What justifies conferring the sacrament in these cases is the general intention of wanting to accept all that is necessary for salvation. This general desire to do God's will and to accept whatever means God has ordained as necessary for salvation finds place not only with Baptism and absolution; in some cases it may have reference to Extreme Unction. If a dying unconscious non-Catholic is not baptized, but has attrition, only Baptism can save him. If he is baptized and has attrition for his sins, absolution can save him. If he is baptized and not sufficiently sorry at the moment but becomes so later, Extreme Unction through reviviscence would probably save him. When Baptism may be administered, there should be no reason from the part of circumstances why Penance and Extreme Unction may not be conferred also. Otherwise in the supreme hour of salvation, a pagan would, in relation to the sacramental system, be in a more favorable position than one who is baptized.

Judging from the law of averages there is probability that the unknown and unconscious *moribundus*, encountered in our country, is likely an unbaptized person who has at least the implicit desire to partake of all God has ordained necessary for salvation. Although we do not encourage lay persons to administer Baptism in such cases, nevertheless, a nurse, for instance, would be acting according to an opinion sufficiently probable, if she were to baptize conditionally an unfortunate individual struggling in his last agony. But the provi-

dential presence of a priest at the side of a dying man at the time of greatest need is an additional reason to believe there are sufficient grounds for administering the sacraments to the same. His presence is an external grace which may well serve as the beginning for all which goes to make up sufficient probability.

As a rule, a priest may be very concerned whether the recipient has the required intention. But when the salvation of a soul is at stake, and more cannot be had, must we not settle for an implicit intention which the dying non-Catholic may have in his desire to receive all the means necessary for salvation? Perhaps there is only a *tenuis probabilitas* that this desire is equivalent to a *desiderium implicitum sacramenti*. Nonetheless, dependable authors believe it sufficient.

If a dying non-Catholic may receive the Sacraments without apparent reconciliation to the Church, it is on the grounds that in extreme necessity the prescriptions of the positive law must cede to the demands of the natural law. Claeys-Bouuert and Simenon call this exception rather an application of *epikeia* than a reasonable interpretation of Canon 731, §2.<sup>88</sup> Woywod-Smith believe such exceptions are legitimate by reasonable *epikeia*, where unusual circumstances make the application of the law obnoxious.<sup>89</sup> Notwithstanding what others may hold, the opinion, which under certain conditions permits the administration of the sacraments to dying non-Catholics, rests on greater certainty than an *epikeia* interpretation of Canon 731, §2; it is supported by several decrees of the Holy Office and the weighty authority of not a few dependable theologians.

One ought not to be too quick to blame a priest, or, as it may be, in the case of baptism, a lay person, for having acted in accordance with this or the stricter opinion. What Sabetti-Barrett say about Baptism, applies for the other sacraments: If the circumstances persuade you that you are there by the special providence of God, I certainly would not dare to condemn you but would rejoice, if, provided scandal is removed, you baptized such one conditionally;

<sup>88</sup> Claeys Bouuert, F. et Simenon, G., *Manuale Iuris Canonici* (3 vols. Gandae et Leodii: 1931), II, n. 11.

<sup>89</sup> Practical Commentary, I, n. 625.

nor would I reprove you if you did not baptize, but I would be silent.<sup>90</sup>

Scandal is the greatest problem. The Church is very insistent that it be avoided. If possible, the ceremony should be private. When this is impossible, the priest should inform the bystanders that charity urges the Church to permit such concessions in the hour of one's greatest need. Any suspicion of interconfessionalism would be avoided by instructing the bystanders that the Church supposes these souls to have returned to the true fold in this supreme hour.

There still remains the question as to what extent priests are obliged to administer the sacraments to non-Catholics. The obligation of justice, to which pastors are bound, extends to Catholics and to those who desire to be baptized in the Catholic Church. But pastors must not forget that the spiritual care of the non-Catholics, living in their parish precincts, are commended to their care by Canon 1350.<sup>91</sup> Pastors should ponder ways and means of bringing them into the Church. If a heretic or schismatic explicitly asks to be received into the Church, the pastor is obliged in justice to assist such a one.

The obligation of *charity* exists in spiritual necessity relative to those means by which non-Catholics can *certainly* be helped. Hence, we are bound before all else to help them elicit acts necessary for salvation, namely, acts of faith, hope, love and sorrow for their sins, and induce in them the intention to retract their errors. If these conditions are certainly present and the non-Catholic desires to embrace the Catholic religion and to receive the sacraments, charity obliges the priest to administer them. When there is doubt as to whether these conditions are present, charity will oblige the priest to make further attempts and inquiries. If the doubt concerning them persists, it does not seem that one can establish a certain obligation of administering the sacraments to non-Catholics.<sup>92</sup>

Because there is doubt as to whether or not non-Catholics (excepting those who ask to be received into the Catholic Church)

<sup>90</sup> *Compendium Theologiae Moralis*, n. 662.

<sup>91</sup> Canon 1350, §1. Ordinarii locorum et parochi acatholicos, in suis diocesis et paroeiis degentes, commendatos sibi in Domino habeant.

<sup>92</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 297 sub 4.

have the right dispositions to receive the sacraments, it is difficult to see how the obligation to administer the sacraments to such ones would ever be *grave* from charity. To say that the obligation is gravely binding, is, as one writer reasonably observes, an overstatement.<sup>93</sup>

Although we favor the lenient opinion, we do not mean that priests should go into the high-ways and by-ways seeking out dying non-Catholics. This would be false zeal and extremely reprehensible of priests who are the custodians of the sacraments. "But rather," as Father King concludes in an article written for *The Ecclesiastical Review*, "when Providence guides the priest to them, e.g., by the call of a friend, or some good Sister . . . let the priest go with the intention of doing not the least . . . but the most that sound common sense—of the theological variety, i.e., based on the opinions of prudent theologians—will permit."<sup>94</sup>

### ARTICLE III — CONFIRMATION

In the new Instructions on the Sacrament of Confirmation, a pastor, in certain circumstances is permitted to confer Confirmation on a Catholic in danger of death.<sup>95</sup> May this privilege be extended to dying non-Catholics? In contingencies where an *infant child* of heretical parents is being lawfully baptized in danger of death, there is no doubt that *servatis servandis*, the infant should also be confirmed.<sup>96</sup>

The dying non-Catholic *adult* is a different problem. It is generally agreed that Confirmation may not be conferred upon them, not even upon the unconscious. In a rare case, Father Connell believes

<sup>93</sup> John J. Danagher, "Administration of the Sacraments to Heretics and Schismatics"—*The Jurist*, XIII (1953), 381.

<sup>94</sup> James King, "What Can a Priest do for a Dying Protestant"—*AER*, LXVII (1922), 465.

<sup>95</sup> Cf. Sacra Congregatio De Disciplina Sacramentorum, Decretum De Confirmatione Administranda Iis, Qui Ex Gravi Morbo In Mortis Periculo Sunt Constituti—*AAS*, XXXVIII (1946), 349-354.

<sup>96</sup> E. J. Mahoney, "Confirmation of Dying Heretics"—*The Clergy Review*, XXXI (1949), 339; Francis J. Connell, "Commentary on the 'Decree Empowering Priests to Confirm'"—*AER*, CLVI (1947), 260.

this general prohibition may admit an exception. If the unconscious dying adult non-Catholic is personally known and is a sincerely devout Christian, eager to make use of all means God has provided for conferring an increase of holiness, and there is no possibility that he will recover, a priest with requisite powers may confirm him.<sup>97</sup>

Canon Pistoni holds that Confirmation cannot be validly conferred on a dying heretic.<sup>98</sup> Father Danagher believes the administration would be invalid unless there has been an *explicit* renunciation of heresy or schism and an *explicit* reconciliation with the Church. If this condition is not fulfilled, the dying baptized adult non-Catholic can hardly be enumerated among the *fideles*, in whose favor the faculty of confirming is exercised.<sup>99</sup> To confirm a non-Catholic is to exceed the limits for whom this extraordinary administration is intended. Notice, the Instructions restrict the use of these faculties—not all priests may exercise them—which it would not restrict, if the Church thought all unconfirmed Catholics ought to be confirmed *in extremis*. If the sacrament was not made easily accessible to all Catholics, there is little reason to suppose the Church permits its administration to one or the other non-Catholics.

While theologians find valid reasons for administering Baptism, Penance and Extreme Unction to an unconscious dying non-Catholic in danger of death, no similar reasons are found for Confirmation. No *a pari* argument can be drawn from these sacraments in favor of Confirmation. What justifies giving the former sacraments is the fact that the non-Catholic may be in need of one or the other as a necessary means of salvation. But Confirmation is not a sacrament *necessitate medii*; in fact, it is only probably one *necessitate praecepti*. Furthermore, it is difficult to ascertain whether the dying unconscious heretic has, besides the desire to receive all the means necessary for salvation, the desire also to participate in those means which give an increase of grace—and correspondingly greater glory. Rarely

<sup>97</sup> Francis J. Connell, "The Confirmation of a Non-Catholic"—*AER*, CXXVI (1952), 230.

<sup>98</sup> Pistoni, Josephus, *De Confirmatione a Ministro Extraordinario Conferenda* (Città Del Vaticano: Libreria Editrice Vaticana, 1947), n. 101.

<sup>99</sup> John J. Danagher, "Administration of the Sacraments to Heretics and Schismatics"—*The Jurist*, XIII (1953), 380.

will a priest find this added intention in a dying non-Catholic; still more rarely will he find reasons justifying its administration to one of them.

The administration of Holy Viaticum is forbidden to a heretic or schismatic, since it is a sign of external union with the Church. On the same score, the administration of Confirmation must be refused because it has some parity with Holy Communion in this respect. If the direction of the rubrics forbids the administration of Confirmation in the presence of heretics, *a fortiori* its administration to them is forbidden.

A decree of the Holy Office, issued April 10, 1861, forbade the administration of Confirmation and Extreme Unction to dying neophytes, even though they were considered *capaces* for baptism. Before they could become recipients of Confirmation and Extreme Unction, the decree required them to have some knowledge of these sacraments. Confirmation was not to be conferred unless they knew it gave added spiritual strength to the soul, nor Extreme Unction unless the *moribundus* knew it was ordained *in beneficium animae pro mortis tempore*.<sup>100</sup> Nowadays, as we have noted above, theologians make an exception for Extreme Unction, allowing it to be conferred upon dying unconscious non-Catholics. For some, Extreme Unction may be the sole means of salvation. Ordinarily, Confirmation cannot claim such importance in the economy of salvation. If it should happen that a pastor has only Chrism when he encounters an unfortunate *moribundus*, it would seem he could confirm him conditionally. In such a case, admittedly rare, the Sacrament of Confirmation could *per accidens* be the source of sanctifying grace for him.

The rubrics, given by the Sacred Congregation of the Sacraments, for the extraordinary administration of Confirmation, warn the priest not to perform the rite of Confirmation in the presence of heretics or schismatics, much less with their assistance: "Cavere debet ne coram haereticis aut schismaticis et multo minus eis ministrantibus, confirmet."<sup>101</sup> The prohibition of active participation

<sup>100</sup> S. C. S. Off., 10 aprilis 1861—*Coll. S. C. P. F.*, n. 1213.

<sup>101</sup> S. C. De Discipl. Sacramentorum, "Ritus Servandus A Sacerdote . . . Confirmationem Conferente," 14 sept. 1946—*AAS*, XXXVIII (1946), 356.

is not surprising; it is generally expected. Any active participation, as the handling of the oil stocks, cotton, etc., by a non-Catholic nurse, even though scandal is removed, would be forbidden. But the proscription for passive assistance strikes us as unusual. It calls for some distinction. Father Connell distinguishes between those heretics or schismatics who would be scandalized and those who would not be. For instance, a priest would have to refrain from confirming in the presence of those heretics or schismatics who might be led to believe the Church has changed her doctrine by ceding episcopal rights to the presbyterate. Presbyterians and Oriental schismatics would most likely be scandalized; the Presbyterians because they deny the episcopacy, and the Oriental schismatics because they believe the power to confirm is of the ordinary power of the priesthood. In cases where Protestant or schismatic bystanders would conceive such and similar false notions, the priest is obliged not to confirm. However, if the pastor is convinced that the bystanders have neither knowledge nor are they concerned about the rite being administered, he may administer the sacrament. The rubrics do not exclude the presence of Jews.<sup>102</sup>

#### ARTICLE IV — HOLY COMMUNION

"What is common to the other sacraments," writes the Angelic Doctor, "must be attributed to it (the Blessed Eucharist) in a special manner, because of its pre-eminent dignity." One of its purposes is to unite the members of the Mystical Body of Christ, "because by this sacrament men are gathered together in unity, and that is why it is called Holy Communion."<sup>103</sup> In the words of Pope Pius XII, "The Sacrament of the Eucharist is itself a striking and wonderful figure of the unity of the Church. . . ." <sup>104</sup>

When the World Council of Churches held its international meeting in August of 1954 at Evanston, Illinois, the question of Holy Communion was one of deep concern. Because of varying beliefs,

<sup>102</sup> Francis J. Connell, "Commentary on the Decree 'Empowering Priest to Confirm'"—*AER*, CXVI (1947), 262-263.

<sup>103</sup> III, q. 73, a. 4.

<sup>104</sup> Encyclical *Mystici Corporis*, n. 82.

communion services had to be held according to different rites, "Holy communion" was offered to all the delegates in the Methodist Church and also in the Episcopal Church. The Lutheran Church offered "holy communion" to those who believed in the "actual presence" of Christ in the bread and wine. But the Greek Orthodox Church offered Holy Communion only to its own members.<sup>105</sup>

It appears that at similar "reunion" meetings, held in Europe in recent years, non-Catholics had received Holy Communion at the Mass celebrated by a Catholic priest. According to two writers,<sup>106</sup> this abuse recently prompted the Holy Office to issue the following prohibition: all communication in sacred things is entirely forbidden.<sup>107</sup>

A writer in the *Commonweal* reports the experience of a Catholic Chaplain for German prisoners in Russia, who was approached by Evangelical Lutherans to allow them to participate in our Catholic Liturgy and to receive Holy Communion at the Holy Saturday Services. The Chaplain examined the prisoners and found them to be baptized and believers in the Real Presence. They were familiar with confessing their sins and knew how to elicit an act of perfect contrition. It is sad to relate he permitted them to participate and to receive.<sup>108</sup> One very important factor was missing. There was no abjuration of heresy, nor any reconciliation with the Catholic Church. Such action cannot be condoned, no matter how pitiful the circumstances. The chaplain allowed himself to be persuaded by sentiment to the detriment of sound theological reasoning. The demands of Canon 731, §2 call for a rigid interpretation with regard to Holy Communion—very much so, because the prisoners concerned were not in the danger of death.

Manualists omit Holy Communion altogether in treating the question of administration of the sacraments to dying heretics. This

<sup>105</sup> Cf. "New Leaders in the Christian World"—*Life*, XXXVII, no. 10, (Sept. 6, 1954), p. 82.

<sup>106</sup> F. Hurth, "Annotations"—*Periodica*, XXXVII (1948), 175; W. Conway, "A Recent Instruction of the Holy Office on Religious Unity"—*The Irish Ecclesiastical Record*, LXXI (1950), 365.

<sup>107</sup> Monitum S. C. S. Off., 5 iunii 1948—*AAS*, XL (1948), 257.

<sup>108</sup> H. A. Reinhold, "Scandal of Christians Being Separated"—*The Commonweal*, XLVIII, n. 13 (July 9, 1948), 301-303.

silence has only one indication: Holy Communion may not be given to dying heretics. Certainly the unconscious are out of question; their physical state alone is enough to forbid this irreverence. Nor are exceptions to be made for conscious dying heretics.

If heretics are most certainly excluded, it is because some do not believe in the Real Presence at all, and the others do not believe in the Real Presence of Our Lord in the Holy Eucharist as it is defined by the Council of Trent. This being the case, heretics have not the proper dispositions to receive Holy Communion. Canon Mahoney touches this question in an article "Confirmation to Dying Heretics," where he says Holy Communion is always forbidden to dying heretics because it is a sign of external unity with the Church. Furthermore, he adds, the reasons alleged for prohibiting Confirmation are the same which forbid Holy Communion. Holy Communion, like Confirmation, is not necessary for salvation, while sacramental absolution and Extreme Unction may well be.<sup>109</sup>

Must the same principle of exclusion be made for dying schismatics? Only Vermeersch-Creusen<sup>110</sup> and Regatillo-Zalba<sup>111</sup> make an exception for schismatics with regard to Holy Viaticum when treating the question of the administration of the sacraments to dying non-Catholics. Because of their belief in the Real Presence of Christ in the Blessed Sacrament and the spiritual consolation which comes through Holy Communion, a devout dying schismatic may ask a priest for Holy Viaticum. Vermeersch offers the following case: If a devout schismatic ardently begs for Holy Viaticum from a priest who is alone, may he grant the request? The answer is: Ordinarily (*per se*) he may not. However, in extraordinary circumstances wherein the refusal of the Sacrament would disturb his good faith, the Sacrament may be given to him. In which case we believe there is room for *epikeia*, provided scandal is removed.

A writer in *The Jurist* refers to the decree of the Holy Office given on November 15, 1941 to the Apostolic Visitor for the Ukrainians in Germany in support of this opinion. When the Su-

<sup>109</sup> Cf. E. J. Mahoney, "Confirmation of Dying Heretics"—*The Clergy Review*, XXXI (1949), 338-341.

<sup>110</sup> *Epitome Iuris Canonici*, II, n. 16.

<sup>111</sup> *Theologiae Moralis Summa*, III, n. 23.

preme Sacred Congregation permitted "the Sacraments" to be administered to a Schismatic in danger of death, it made no exception with regard to the Sacrament of the Eucharist. Provided the dying schismatic rejects his errors at least implicitly, as far as this can be done (considering the circumstances and persons), the writer believes Holy Viaticum, if he asks for it, may be given to him as well as absolution and Extreme Unction.<sup>112</sup>

This indeed would be a rare concession because it touches the very heart of our Catholic Sacra. Nothing more sacred could be given, for the Blessed Sacrament contains the Body and Blood of Christ. The other sacraments are protected by conditional administration, but there is no such safeguard for the Holy Eucharist. While faith in the presence of the Body and Blood of Christ may, in the case of the devout schismatic, remove the danger of irreverence or sacrilege, this cannot be said for the dying heretic.

#### ARTICLE V — MIXED MARRIAGES

Unknown to many, the Church detests mixed marriages "*ob flagitiosam in sacris communicationem cum haereticis.*"<sup>113</sup> Living in a country predominantly non-Catholic where mixed marriages are numerous, we are apt to forget that the Church has from the beginning energetically opposed such unions. Mixed marriages fall far short of the ideal union which exists between the Church and Christ, her Spouse.

One reason why the Church disapproves of mixed marriages is the *communicatio in sacris* which the rite involves. This is especially true if the non-Catholic party is baptized. As ministers to each other, baptized persons confect the Sacrament of Matrimony. But it is unlawful without grave necessity for a Catholic to communicate in religious rites with a non-Catholic, and to receive a sacrament from him. The Catholic party not only receives the sacrament from a heretic or schismatic, but administers it to him as well.<sup>114</sup> Granted

<sup>112</sup> John J. Danagher, "Administration of the Sacraments to Heretics and Schismatics"—*The Jurist*, XIII (1953), 376.

<sup>113</sup> Declaratio Benedicti PP. XIV, 4 nov. 1741—*Coll. S. C. P. F.*, n. 333.

<sup>114</sup> Cf. Prümmer, *Manuale Theologiae Moralis*, III, n. 785.

this type of religious communication is not intrinsically evil because it represents participation in a rite of the true faith, it is, nevertheless, prohibited because of the unhallowed use of the Sacrament, or at least of the marriage ceremony, if the non-Catholic party is not baptized. One who possesses neither the right nor the worthiness actively shares in a religious ceremony; and does so publicly, for marriage is a public act.

Other reasons besides *communicatio in sacris* forbid mixed marriages. There are obstacles to the good education of the children and dangers to the faith of the Catholic party, which come from a life-long and intimate association with a non-Catholic.<sup>115</sup> But the Church, a merciful Mother, has now and again tolerated mixed marriages on account of weighty reasons. Formerly dispensations were granted only for public reasons, *ex publica causa*, as when the Church hoped to obtain some great common good. Today it is granted for personal reasons, *ex privata causa*, which reasons, however, must be truly grave.<sup>116</sup>

The Holy See empowers local Ordinaries to dispense with the customary severity when it is necessary to avoid greater evils.<sup>117</sup> Greater evils, and the avoidance of which permits certain concessions in the ceremony of mixed marriages, are: hatred and animosity of the non-Catholics against the faithful and the Church, the danger that the bridal couple would go to a non-Catholic minister or church, the danger that the non-Catholic would repudiate the ante-nuptial agreement or the Catholic, out of vindictiveness, would give up his faith.<sup>118</sup>

The Church will not permit a Catholic to enter into marriage with a non-Catholic unless certain guarantees are obtained. The non-Catholic party must guarantee to remove all danger of perversion from the Catholic party. Both the Catholic and the non-Catholic must promise that all the children born of the union will be baptized and educated in the Catholic faith alone. Before a

<sup>115</sup> Cf. Encyclical *Arcanum*, Leonis PP. XIII, 10 feb. 1880—*Fontes*, n. 580.

<sup>116</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 559.

<sup>117</sup> *Instructio Antonelliana*, 15. nov. 1858—*Fontes*, n. 6454.

<sup>118</sup> Cf. Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 651.

dispensation is sought for such a union, the pastor should have moral assurance that these promises will be kept.<sup>119</sup>

Besides the above *cautiones* exacted by the Code, there are others which diocesan regulations may require, such as, the Catholic party must promise to fulfill his religious obligation faithfully and strive with prudent means for the conversion of his non-Catholic consort, the non-Catholic must promise to adhere to the doctrine of indissolubility regarding marriage, both parties must promise to follow the Church's teaching against birth prevention, and among others, they must promise not to go through any other marriage ceremony before a non-Catholic minister.<sup>120</sup> This last promise is concerned with *communicatio in sacris*. While the Church has relaxed her prohibitions with regard to mixed marriages, performed before a Catholic priest, she cannot dispense from the prohibition of the divine law which forbids the Catholic spouse to emit his or her marriage vows before a non-Catholic minister acting in his capacity as minister. A Catholic who does so, commits a sacrilege and incurs the pain of excommunication reserved to the Ordinary.<sup>121</sup>

The same canonical form is to be observed in mixed marriages as in Catholic marriages, i.e., before an authorized priest and two witnesses.<sup>122</sup> But the part the priest takes in asking and receiving the matrimonial consent of the parties in a mixed marriage is to be only simple assistance.<sup>123</sup> Solemn assistance is forbidden in mixed marriages by Canon 1102, §2, which clearly states: All sacred rites are forbidden. If, however, greater evils should be foreseen from this prohibition, the Ordinary may permit one or the other of the usual ecclesiastical ceremonies, but never the celebration of Mass.<sup>124</sup>

Under no circumstances may a Mass be celebrated in connection with the ceremony of a mixed marriage. Gasparri is of the opinion that the Ordinary may allow, for grave reasons, all the sacred rites

<sup>119</sup> Cf. Canon 1061.

<sup>120</sup> Bouscaren-Ellis, *Canon Law, A Text and Commentary*, pp. 516-517.

<sup>121</sup> Cf. Canons 1063 and 2319.

<sup>122</sup> Canon 1102, §1.

<sup>123</sup> Noldin-Schmitt, *loc. cit.*

<sup>124</sup> Canon 1102, §2: Sed omnes sacri ritus prohibentur; quod si ex hac prohibitione graviora mala praevideantur, Ordinarius potest aliquam ex consuetis ecclesiasticis caeremoniis, exclusa semper Missae celebratione, permittere.

except the celebration of the Mass.<sup>125</sup> Augustine notes the nuptial Mass is always excluded, even in cases where the Blessing of the Ritual is permitted.<sup>126</sup> An exception was made to this rule, when Pope Pius XI allowed a Mass to be included in the marriage ceremony between the schismatic King Boris of Bulgaria and the Catholic Princess Giovanna of Italy. Actually, however, according to reliable sources the Mass was not celebrated on this occasion "because the late hour necessitated the shortening of the ceremonies."<sup>127</sup>

Previous to the Code the Holy Office, even though the bridal couple would not occupy prominent seats thereat, forbade a private Mass to be offered after the ceremony, if the Mass was likely to be regarded as a part of the marriage ceremony.<sup>128</sup> In 1925, the Code Commission interpreted Canon 1102, §2 as prohibiting not only the Mass *pro Sponsis*, but any other Mass, if from the circumstances it would appear the Mass is a complement to the marriage ceremony.<sup>129</sup> However, the couple may have a private Mass said on the day of their marriage, and if they assist at it, their presence is to be no more conspicuous than that of the faithful who ordinarily attend.<sup>130</sup>

Because the Mass is forbidden, it follows that the nuptial blessing is likewise forbidden.<sup>131</sup> Ordinarily the nuptial blessing should not be separated from the Mass. But in the United States, the bishops may, in virtue of a special indult, permit it to be given outside of Mass, when both parties are Catholics. Canon 1149 allows sacramentals to be conferred on non-Catholics, but, as Vermeersch-Creusen note, a positive prohibition demands that the nuptial blessing be withheld from non-Catholics.<sup>132</sup> Distinct from the solemn nuptial blessing is the blessing of a diocesan ritual, which the Ordinary may allow for mixed marriages. Noldin-Schmitt speak of these bless-

<sup>125</sup> Gasparri, Petrus, *Tractatus Canonici de Matrimonio* (2 vols. Parisii: Officina Delhomme et Brigue, 1900), I, nn. 462-467.

<sup>126</sup> *A Commentary on Canon Law*, V, p. 310.

<sup>127</sup> *NCWC News Release*, Oct. 27, 1930, and Oct. 29, 1930.

<sup>128</sup> S. C. S. Off., 17 jan. 1872—*Coll. S. C. P. F.*, n. 1379.

<sup>129</sup> Pontif. Comm. Ad Codicis Can. Authentice Interpret., 10 nov. 1925—*AAS*, XVII (1925), 583.

<sup>130</sup> Prümmer, *Manuale Theologiae Moralis*, III, n. 789.

<sup>131</sup> Cappello, *Summa Iuris Canonici*, II, n. 391.

<sup>132</sup> *Epitome Iuris Canonici*, II, n. 467.

ings.<sup>133</sup> Accordingly, the *Collectio Rituum*, a new ritual provided for the Dioceses of the United States, contains such invocations in the exhortation to be given after the marriage ceremony.<sup>134</sup>

In assisting at a mixed marriage, the priest must observe the statutes laid down by the Ordinary of the place. Not all bishops permit the same. The Ordinary may allow the ceremony to take place in the Church, but outside the sanctuary. He may even allow the priest to wear a surplice, though ordinarily he may not wear a surplice and stole, but only his cassock.<sup>135</sup> If he has prelatial rank, he may wear the customary prelatial robes; none of these are considered sacred vestments. There should be no blessing of the ring.<sup>136</sup> In fine, if, to avoid greater evil, the pastor believes it necessary to add one or the other ceremonies (though never the celebration of the Mass) Canon 1102, §2 requires him to make recourse to the local Ordinary.

## ARTICLE VI — SPONSORS, PROXIES AND WITNESSES

### A. *Sponsors at Baptism*

The Code explicitly forbids non-Catholics to act as sponsors at a Catholic baptism. Among the qualifications required for valid assistance of a sponsor at baptism are: that he be baptized and not belong to any heretical or schismatical sect. The reason for this rule is found in the constant and uniform practice of the Church. From early times she has denied this office to heretics and schismatics, who, because of their defection from the true faith, are incapable of assuming a duty to instruct god-children in the Catholic faith. They are excluded from the performance of this function under the pain of invalidating their office. Furthermore, they are debarred

<sup>133</sup> *Loc. cit.*

<sup>134</sup> *Collectio Rituum Pro Diocesibus Statuum Foederatorum Americae Septentrionalis* (Milwauchiae: Bruce, 1954), pp. 125-126 (hereafter cited *Collectio Rituum*).

<sup>135</sup> Cf. Augustine, *A Commentary on Canon Law*, V, p. 309; Woywod-Smith, *Practical Commentary*, I, n. 1131.

<sup>136</sup> Noldin-Schmitt, *loc. cit.*

from this function because it involves active participation in the sacramental rite of baptism itself. The rubrics of Canon 765 bear out this fact. It reads: That the sponsor himself personally or by proxy *physically hold or touch* the person baptized in the very act of baptism, or that he immediately *lift or receive* the person baptized from the font or the hands of the person baptizing.<sup>137</sup>

A decision of the Holy Office appeared as early as October 14, 1676, forbidding heretics and schismatics to act as sponsors at Catholic baptism. This permission was sought because the non-Catholic was a close and dear friend of the family, but the Holy Office simply answered, "non posse."<sup>138</sup> The prohibition is so strict that the Holy Office on December 9, 1745, declared if qualified sponsors were not available, it was preferable to have no sponsor than a heretic, "conferendum potius esse Baptisma sine patrino, cum patrinus non sit de necessitate sacramenti."<sup>139</sup> Again, on June 27, 1900, it decreed where one parent is a Catholic and the other a non-Catholic, and they were married outside the Church, a non-Catholic could not be admitted as a sponsor in the baptism of their child.<sup>140</sup>

A non-Catholic may not be given the privilege to appoint a Catholic to serve as his proxy. An Instruction of the Holy Office on January 3, 1871, declared in the administration of baptism and confirmation a heretic or a schismatic could not act as a sponsor, either himself or through a Catholic proctor, either alone or together with Catholics, "neque per se, neque per catholicum procuratorem, neque soli, neque una cum catholicis."<sup>141</sup> In no way may a non-Catholic be a sponsor; neither personally nor through a proxy.

If a non-Catholic has already been designated by the parents to act as the sponsor and he cannot be removed without grave inconvenience, he may be admitted, says an Instruction of the Holy

<sup>137</sup> Canon 765: Ut quis sit patrinus oportet: 1.° Sit baptizatus . . . 2.° Ad nullam pertineat haeticam aut schismaticam sectam . . . 5.° Baptizandum in actu baptismi per se vel per procuratorem physice teneat aut tangat vel statim levet seu suscipiat de sacro fonte aut de manibus baptizantis.

<sup>138</sup> *Coll. S. C. P. F.*, n. 211.

<sup>139</sup> *Coll. S. C. P. F.*, n. 355.

<sup>140</sup> *Acta Sanctae Sedis*, XXXIII, 372.

<sup>141</sup> *Coll. S. C. P. F.*, n. 1362.

Office, "tamquam testis non tamquam patrinus."<sup>142</sup> But his name is not to be inscribed into the parish records as the sponsor, because a non-Catholic cannot act validly as a godparent.<sup>143</sup> In circumstances where the heretic is admitted as "testis," he should not be permitted to touch the infant during the ablution.<sup>144</sup> To assist as a witness implies no more than passive attendance, and no part whatsoever is to be taken in the ceremony. The same Instructions admonish the priest to inform the non-Catholic "testis" that the Catholic alone is the sponsor. Likewise, those who witness the ceremony must be informed that the non-Catholic had no active part in the baptismal rite.

In rare instances it may be very difficult to prevent a non-Catholic from touching the infant during the baptismal ceremony. To avoid greater evil, the priest may permit him to do so, but he is not the sponsor. Certainly it would be a greater evil if, because of this refusal, the baptism were omitted or were performed by a non-Catholic minister. To prevent this, Noldin-Schmitt permit the non-Catholic not only to witness, but to touch, if he insists, the infant during the actual baptizing.<sup>145</sup> Because the non-Catholic does not take part in an act intrinsically evil, is another good reason, Cappello adds, why such action may be tolerated to avoid a greater evil.<sup>146</sup> Pertaining as it does to Catholic *sacra*, the sacrament of Baptism is a sacred function good in itself.

### B. Sponsors at Confirmation

Non-Catholics are forbidden to act as sponsors at Confirmation. For the valid fulfillment of this office, Canon 795 requires the sponsor himself to be confirmed and not to belong to any heretical or schismatical sect.<sup>147</sup>

Practically the same requisites are demanded for sponsorship at

<sup>142</sup> *Coll. S. C. P. F.*, n. 447.

<sup>143</sup> Prümmer, *Manuale Theologiae Moralis*, III, n. 145.

<sup>144</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 80.

<sup>145</sup> *Loc. cit.*

<sup>146</sup> *De Sacramentis*, I, n. 177.

<sup>147</sup> Canon 795: Ut quis sit patrinus, oportet: 1.° Sit ipse quoque confirmatus . . . 2.° Nulli haereticae aut schismaticae sectae sit adscriptus. . . .

Confirmation as at Baptism. Two decisions of the Holy Office simultaneously exclude them from the office of sponsor at Confirmation as well as Baptism.<sup>148</sup> Sponsorship is denied them because, should necessity demand it, they are in no position to fulfill the obligation of instructing and preparing their god-child for spiritual combat.

### C. Proxies

There are no decisions of the Church which debar non-Catholics from acting as proctors for Catholic sponsors.<sup>149</sup> Nor does the Code forbid it. Woywod-Smith believe it is unbecoming to appoint as proxies non-Catholics, whom the Code excludes from sponsorship.<sup>150</sup> Augustine reasons it would be unsafe to employ them as proctors because Canon 2256, §2 debars them from serving as procurators in legal acts.<sup>151</sup>

For a very grave reason, a non-Catholic could be admitted as a proxy, provided he was informed he is only a proxy and not a sponsor. It is not necessary that he be even baptized. As long as he is capable of accepting the mandate and of performing the material act required of a sponsor at baptism, the validity of his function is assured.<sup>152</sup>

It is gravely illicit to use a non-Catholic proxy at baptism without a very grave reason. Two reasons forbid it; first, the proxy would thereby assist actively in the ceremonies; and secondly, he is bound to give scandal.<sup>153</sup> Answering this question in *The Jurist*, Bishop Hannan writes that if a non-Catholic demanded some part in the baptism in consideration for favors received from him and if serious consequences cannot be otherwise avoided, he may be admitted as proxy."<sup>154</sup>

<sup>148</sup> —Cf. S. C. S. Off., 10 oct. 1676—*Coll. S. C. P. F.*, n. 211; S. C. S. Off., 3 jan. 1871—*Coll. S. C. P. F.*, n. 1362.

<sup>149</sup> Cf. Augustine, *A Commentary on Canon Law*, IV, p. 80.

<sup>150</sup> *Practical Commentary*, I, p. 392.

<sup>151</sup> *Loc. cit.*

<sup>152</sup> Woywod-Smith, *loc. cit.*

<sup>153</sup> Abbo-Hannan, *The Sacred Canons*, I, p. 765.

<sup>154</sup> Jerome D. Hannan, "Non-Catholic Proxy"—*The Jurist*, V (1945), 26-27.

## D. Witnesses at Marriages

There is no problem as to the validity of non-Catholics serving as witnesses at a Catholic marriage.<sup>155</sup> Their participation in this rite as witnesses is merely one of liceity.<sup>156</sup> In Baptism and Confirmation the office of sponsors is one of validity of the office. This difference has no doubt led Coronata to believe non-Catholics may be had as witnesses at a Catholic marriage, since in this office there is probably no *communicatio in sacris*.<sup>157</sup> Fanfani is of the same opinion.<sup>158</sup> But according to Augustine, this office belongs to active participation.<sup>159</sup> Prescinding from these views, their participation as witnesses at a Catholic marriage has at least the appearance of religious communication, and as such could easily be a source of scandal. This alone would ordinarily forbid employing them.

The Holy Office declared on August 19, 1891, that non-Catholics were ordinarily to be prohibited to act as witnesses at Catholic marriages, but the local Ordinary could for a grave reason permit them, provided no scandal is given. "Non esse adhibendos," ran the reply, "posse tamen ab Ordinario tolerari ex gravi causa, dummodo non adsit scandalum."<sup>160</sup> Manualists refer to and uphold this decision. None permit it without a grave reason. Noldin-Schmitt write: "Illicite adhibentur testes acatholici, ubi catholici haberi possint."<sup>161</sup> Vermeersch's words are similar: "Ubi catholici haberi possint, illicite assumuntur acatholici."<sup>162</sup> Prümmer says: "Accedente gravi causa et absente scandalo, acatholici possunt esse testes in matrimonio catholicorum."<sup>163</sup> Fanfani gives this rule: "Ad liceitatem vero, excludendi sunt acatholici, . . . nisi ex gravi causa ab Ordinariis loci pensanda, opportunius appareat eos admittere."<sup>164</sup>

<sup>155</sup> Cf. Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 397.

<sup>156</sup> Fanfani, *Manuale Theologiae Moralis*, IV, n. 651.

<sup>157</sup> *Institutiones Iuris Canonici*, II, n. 836.

<sup>158</sup> *Loc. cit.*

<sup>159</sup> *A Commentary on Canon Law*, VIII, p. 177.

<sup>160</sup> *Coll. S. C. P. F.*, n. 1756.

<sup>161</sup> *Summa Theologiae Moralis*, III, n. 643.

<sup>162</sup> *Theologia Moralis*, III, n. 795.

<sup>163</sup> *Manuale Theologiae Moralis*, I, n. 525.

<sup>164</sup> *Manuale Theologiae Moralis*, IV, n. 651.

These authors remind us that the decree of the Holy Office bids the pastor to make recourse first to the local Ordinary. He is to decide whether the reasons given warrant this toleration. Ordinary friendship does not seem to be sufficient. If the bride is a convert, and desires her non-Catholic sister to be the bridesmaid, the reason is considered a good one.

A priest, laboring in inaccessible mission lands, or in those states where only ministers of religion have the authority to assist at marriages, may be approached by two non-Catholics asking him to assist at their marriage. The Holy Office rendered a private response on this matter on July 25, 1917. The reply is recorded by Bouscaren in *The Canon Law Digest* and reads as follows:

It is settled law that clerics may not without an Apostolic Indult accept public offices which involve the exercise of lay jurisdiction or administration (c. 139, §2); and therefore may not act as civil magistrates in marriage. Even when an Apostolic Indult has been obtained permitting them to exercise the said office, since their official assistance renders the marriage valid in the eyes of the civil law, it is certain that their assistance at the marriages of heretics and infidels is, generally speaking, still illicit if there happen to exist a diriment impediment of the natural or positive divine law against the particular marriage in question, and also in case of scandal. If, therefore, considerations of the public welfare make it advisable to grant such an Apostolic Indult to missionaries, there is no objection to its being granted by the Sacred Congregation of Propaganda to those Vicars Apostolic who ask for it, provided however: (1) That there is no diriment impediment of natural or divine law to the marriage; (2) That no condition is agreed to, contrary to the substance of marriage; (3) That no heretical or superstitious ceremony is connected with the civil act; (4) Finally, that there is no scandal, nor danger of favoring religious indifferentism.<sup>165</sup>

From the instruction of the Holy Office it is evident that an Indult is necessary and the priest, even though he acts not as a minister of religion but as an official of the state, must have the assurance that there are no infringements against the conditions laid down by the decree. However, if a priest without the Indult assisted

<sup>165</sup> Volume II under Canon 1097, pp. 333-334.

at the marriage of two non-Catholics, provided the first and second conditions of the decree were verified, in the case of two unbaptized persons, the marriage would be valid, and in the case of two baptized, it would be valid also because they are not bound to the canonical form. But his assistance would be illicit, because he lacks the Apostolic Indult.<sup>166</sup>

<sup>166</sup> Cf. Thomas Owen Martin, "Priest As State Official In Marriages"—*AER*, CXI (1944), 308-310.

## CHAPTER FOUR

### NON-CATHOLICS AND THE MASS

THE most noble of all the sacraments is the Holy Eucharist. It contains Christ Himself, the author of grace. "From this sacrament as from a fountain is derived the goodness and perfection of all the other sacraments."<sup>1</sup> More than a sacrament, the Catholic Church teaches that the Holy Eucharist is a sacrifice. The Holy Sacrifice of the Mass is the culmination and center of Catholic Worship.<sup>2</sup> To share in the offering of this Sacrifice is the greatest privilege one can enjoy upon earth. This privilege is not given to all, but only to those who belong to the Mystical Body of Christ. They alone are permitted to collaborate in offering this august Sacrifice, because the Mass is the public worship of a *particular community*.<sup>3</sup>

We are heading for even more problems than have hitherto been dealt with in the field of *communicatio in sacris* as the liturgical trend among the faithful continues to gain momentum. The faithful are assuming an "active participation in the more sacred mysteries." As the Holy Father has recognized with praise, many are striving "to make the Liturgy even in an external way a sacred act, in which all who are present may share."<sup>4</sup> One need only cite such examples as the dialogue Mass, the congregational singing at the High Mass, and the role recently assumed by the laity in the new Holy Saturday services. This trend is a departure from the passive and detached spectator attitude, had by many of the faithful, and which attitude a non-Catholic could easily follow without transgressing the bounds of tolerated passive assistance.

As the faithful move more and more toward an outward active participation in the sacred liturgy, there is danger that the non-Catholics who attend our services may want to move along with

<sup>1</sup> *Catechismus Ex Decreto Concilii Tridentini Ad Parochos* (Padua: Ex Typis Seminarii Patavini, 1930), Pars II, c. iv, n. 47.

<sup>2</sup> Encyclical *Mediator Dei*, n. 66.

<sup>3</sup> *Ibidem*, nn. 19-20.

<sup>4</sup> *Ibidem*, n. 105.

them. But this must be avoided. If, in any act, non-Catholics are to be forbidden active participation, it is in the Mass, the principal act of our Catholic worship.

Abbé Michonneau recognizes these difficulties. He reminds us:

The liturgy as it now exists is the prayer of the faithful, and it must be celebrated with the Old Christians in mind, even though we try to think of the new converts present, but also of the pagans, who may, occasionally, be present. On the other hand there are the para-liturgical ceremonies, usually at night, which are pointed directly at those outside the fold, even though Christians, too, may benefit from them.<sup>5</sup>

He would try to avert the problem of their participation in the Mass in the following manner:

We ought to distinguish between missionary liturgy and Catholic liturgy. The former will be purposely intended to draw and hold the uninitiated, while the latter will be the official worship of the signed and sealed followers of Christ. Naturally we do not plan any police methods to insure the Christianity of everyone who comes in the church door, but we should try to work out a programme adapted to all stages of spirituality. It is not wrong to ask people to come to church for ceremonies other than the Mass. When they are present, community prayers or chant may be used in a great variety of forms, and with a great deal of profit.<sup>6</sup>

#### ARTICLE I — WAYS OF ASSISTING AT MASS

One may actively concur with the priest in offering the Sacrifice of the Mass<sup>7</sup> (1) by ministering to the priest at the altar as server or sacristan, (2) by offering the material of the Sacrifice either by giving the bread and wine—a more frequent occurrence in ancient

<sup>5</sup> Michonneau, G., *Revolution in a City Parish* (Westminster, Md.: The Newman Press, 1950), p. 30.

<sup>6</sup> *Ibidem*, p. 118.

<sup>7</sup> Besides these, C. Callewaert in *Liturgicae Institutiones* (3. ed., Brugis: Apud Carolum Beyaert, 1933), Tract. I, n. 36, lists others as ministering in the capacity of a deacon or a subdeacon and the receiving of Holy Communion. We omit these for obvious reasons.

times—or by making an offering for the Mass by way of a stipend, (3) by taking part in the prayers and the liturgical chant, either by reciting aloud the prayers of the Mass with others (Dialogue Mass) or by participating in the chant with the congregation or the choir, (4) by following the order of the Mass and reciting privately the same prayers which the priest recites at the altar, and (5) by reciting other “prayers which, though they differ from the sacred rites, are still essentially in harmony with them.”<sup>8</sup>

The Sacrifice of the Mass is the Sacrifice of the Mystical Body, and only those who are members of the Mystical Body may participate in it as co-offerers with the priest. For this reason the Church forbids non-Catholics from taking any active part in the ceremonies of the Mass. Formerly her legislation excluded them even from passive attendance at Mass. In fact, if a non-Catholic presented himself at the sacred functions, the priest was obliged to cease celebrating until he was expelled. Today this law remains only in part, and it does not affect the ordinary non-Catholics. Only those are excluded from passive attendance who are excommunicated by name and whom the faithful are commanded to avoid.<sup>9</sup>

## ARTICLE II — ATTENDANCE OF NON-CATHOLICS AT MASS

If in time the Church allowed non-Catholics to attend Mass, she allowed them no more than passive attendance.<sup>10</sup> As long as in their exterior demeanor they remained passive, i.e., mere spectators, she permitted their presence at Mass. There are several decrees of the Holy Office which determine in what manner non-Catholics may assist at Catholic services, and others which determine how and under what score non-Catholics may be invited to sacred functions.

The passive assistance permitted them is not without restrictions. Non-Catholics are not allowed to attend Mass or any other sacred

<sup>8</sup> Cf. Encyclical *Mediator Dei*, nn. 87, 88, 105 and 108.

<sup>9</sup> Special legislation governs communication with the *vitandi*. Canon 2267 forbids the faithful to associate with them *in profanis, a fortiori, in divinis*.

<sup>10</sup> An Instruction of the Holy Office not only warned the faithful not to invite non-Catholics to attend Mass, it likewise forbade inviting them to other religious ceremonies, as the administration of Baptism. Cf. Instr. S. C. S. Off., ian. 1763—*Coll. S. C. P. F.*, n. 477.

functions as official representatives of some sect or sectarian society. Nor may a Mass be offered which they wish to attend as sponsored by them and announced as such in invitations and publications.<sup>11</sup> The Holy Office warns against giving the incense or the *pax* to a schismatical Governor and officials, as this is not permitted under any pretext, and advises against inviting the Governor to the solemn Mass on the feast of the Protector, in order to avoid the occasion of these acts, which cannot be permitted.<sup>12</sup> If, as Coronata<sup>13</sup> notes, it is forbidden to place a Catholic president in the Sanctuary, rightly may we infer that the same would be forbidden even more so for any non-Catholic personage.

Merkelbach<sup>14</sup> contents himself with the question by merely mentioning that the passive assistance of non-Catholics at Catholic services is tolerated, while Vermeersch<sup>15</sup> reminds us that, although their presence may be tolerated, the Holy Office<sup>16</sup> forbids us to *formally* invite them to these sacred functions. *Ordinarily* it is illicit to extend a formal invitation to non-Catholics because a gesture of this kind may give them the impression that in spite of the differences of belief, unity of worship is possible. There are exceptions to this rule. When asked whether it is permissible to invite non-Catholics to a marriage ceremony between Catholics (supposedly a nuptial Mass), the Holy Office answered<sup>17</sup> it could be tolerated for a reasonable cause, provided they took no part in the services and there was no danger of giving scandal. Not only kinship, but mere friendship, would seem to be a sufficient reason for inviting them. On the same score, invitations could be sent out to non-Catholic friends on the occasion of a first Mass or some other solemn service.

Here, especially, the tendency of dealing more leniently with

<sup>11</sup> S. C. S. Off., 5 iul. 1878—*Coll. S. C. P. F.*, n. 1495. This decree explicitly refers to the Masons, but the same is applicable to non-Catholics in general.

<sup>12</sup> S. C. S. Off., 12 maii 1841—*Fontes*, n. 885.

<sup>13</sup> Coronata, *Institutiones Iuris Canonici*, II, n. 839.

<sup>14</sup> *Summa Theologiae Moralis*, I, n. 753.

<sup>15</sup> *Theologia Moralis*, II, n. 51.

<sup>16</sup> S. C. S. Off., 22 sept. 1763—*Coll. S. C. P. F.*, n. 450.

<sup>17</sup> S. C. S. Off., 14 ian. 1874—*Coll. S. C. P. F.*, n. 1410.

non-Catholics and their participation in Catholic worship appears. Formerly the Church excluded them altogether, but gradually a more tolerant doctrine crept in.<sup>18</sup> In fact several recent manualists<sup>19</sup> indicate that the Church even welcomes the presence of non-Catholics at Mass and other functions. As long as they are favorably disposed and will assist devoutly, their presence is desired because not infrequently a non-Catholic is attracted to the Church and led to embrace the true faith on account of the Eucharistic cult and beauty of the Catholic liturgy.

However, to spread the idea indiscriminately among non-Catholics that all are welcome would be to go beyond the confines of what toleration really means. An "all are welcome" announcement inserted in the local newspaper or bulletin would degrade the one and true religion to the status of being regarded as just another religion. The Eucharistic Sacrifice is not just another service, but it is the one and only Sacrifice of the new Christian economy. Finally, such liberality would do away with the distinction of what participation comes to one by way of right and what is granted to another by way of toleration. Only the faithful have the right to assist at Mass; the distinction must be kept that the presence of others is only tolerated.

Finally, a Catholic must not bargain with a non-Catholic that he will attend non-Catholic services if the non-Catholic will attend our services. A Catholic may be tempted to make this proposition with a non-Catholic friend whom he hopes to lead into the Church. But such bargaining is forbidden under two aspects. First, Catholics

<sup>18</sup> Genicot, who looks to D'Annibale, Ballerini-Palmieri and Lehmkuhl for his support, informs us in a pre-Code edition that the Church has adopted a less rigorous attitude toward the attendance of tolerated excommunicates (non-Catholics). "Sic Ecclesia heterodoxos potius *allicit* ad officia sua frequentanda quam eos ab iisdem removet cum hac frequentatione crebro ad conversionem adducantur; neque ullus episcopus increpat catholicos excommunicatos, ex. gr. franco-muratores, qui Sacro interesse solent. Attamen non est permittendum heterodoxis ut partem in ipsis sacris caeremoniis sumant, cum saltem exteriori professione haeresis, ab Ecclesia separati vivant ac proinde tractari nequeant tamquam fideles huius Matris filii." *Theologiae Moralis Institutiones* (5. ed., Typis Et Sumptibus Polleunis Et Ceuterick, Lovanii: 1905), II, n. 583.

<sup>19</sup> Prümmer, *Manuale Theologiae Moralis*, I, n. 524; Fanfani, *Manuale Theologiae Moralis*, II, n. 37; McHugh-Callan, *Moral Theology*, I, n. 957.

are forbidden to attend, even passively, non-Catholic services without a justifiable reason, which ordinarily is not verified in this case. Secondly, an exchange of courtesy of this kind would leave the impression that the Sacrifice of the Mass is not superior to non-Catholic forms of worship.<sup>20</sup>

### ARTICLE III — NON-CATHOLICS AND THE OBLIGATION TO ASSIST AT MASS

It is controverted whether baptized non-Catholics who were never members of the Catholic Church are bound to the precept of hearing Mass on Sunday and Holydays of Obligation. Father John Guiniven in his dissertation "The Precept of Hearing Mass" asserts his conviction that this precept binds all heretics and schismatics, including those who were born and reared outside the Church. In practice he hesitates to condemn absolutely the use of the lenient opinion (which does not hold them obliged), first, because it is supported by a number of renowned manualists, and second, because there is possibility that heretics and schismatics born and reared outside the Church have become freed of their obligation by legitimate contrary custom.<sup>21</sup>

According to Fanfani, it is the more probable opinion that the Church does not intend to bind those born in heresy to this precept.<sup>22</sup> Lest sins be uselessly multiplied, for practical reasons they are not held bound to this and other similar precepts. However, it is to be noted that the Church has never declared them free from these laws. If they are excused, it is ignorance which excuses them from the law.

Concerning those Catholics who have gone over to heresy or schism, theologians agree that they are bound to the ecclesiastical precepts in general. There is no doubt that they remain subject to the laws of the Church. But there is a special difficulty regarding the obligation of hearing Mass on the part of those who are excom-

<sup>20</sup> Cf. McHugh-Callan, *Moral Theology*, I, n. 966 under b.

<sup>21</sup> Guiniven, John Joseph, C.S.S.R., *The Precept of Hearing Mass*, The Catholic University of America, Canon Law Studies, n. 158 (Washington, D. C.: The Catholic University of America Press, 1942), pp. 94-95.

<sup>22</sup> *Manuale Theologiae Moralis*, III, n. 75.

municated. Under the old law all excommunicated persons without exception were forbidden to assist at divine services. Today only the *vitandi* are barred from divine services. Through custom a milder attitude has become accepted whereby the *tolerati* are no more excluded from divine services.

Excommunicates, Fanfani says, have the obligation to hear Mass, even if they are *vitandi*. Notwithstanding the censure, they still remain subjects of the Church, and the Church does not intend that delinquents should have any benefits from their crimes. It is true a *vitandus*, as long as he remains under excommunication, cannot assist at Mass. Nevertheless, he is held to do penance as soon as possible, so that he can fulfill this precept. Therefore, as long as he remains unrepentant, he is guilty *in causa* for transgressing this precept.<sup>23</sup>

Vermeersch-Creusen would not hold an excommunicate bound to this precept if his crime were so public that it would cause him to be expelled from the assembly.<sup>24</sup> Because Canon 2259, §1 reads: "Excommunicatus quilibet caret iure assistendi divinis officiis . . .," Fr. Guiniven reasons that it does not forbid the *tolerati* to attend Mass but merely deprives them of the *right* to do so. To be deprived means one may be expelled, but if he is not expelled he may licitly assist at Mass. However, he concludes the *tolerati* are not to be held bound to this obligation in practice because of the doubt of law which exists concerning the precept.<sup>25</sup>

#### ARTICLE IV — THE NEW HOLY SATURDAY SERVICES

Easier to participate in, and thus open to greater problems of communication than the dialogue Mass or congregational singing is the new Holy Saturday service.<sup>26</sup> Through the congregational candle lighting and the renewal of the baptismal vows in the vernacular, its rubrics are arranged in a manner that the faithful can

<sup>23</sup> *Loc. cit.*

<sup>24</sup> *Epitome Iuris Canonici*, III, n. 461.

<sup>25</sup> *The Precept of Hearing Mass*, p. 98.

<sup>26</sup> Cf. *Sacra Congregatio Rituum, Decretum De Facultativa Celebratione Instauratae Vigiliae Paschalis Ad Triennium Prorogata Additis Ordinationibus Et Rubricarum Variationibus*, die 11 Ianuarii, 1952—*AAS*, XLIV (1952), 48-63.

very easily take a more active role in this solemn and public worship of the Church.

Occurring at that time of the year when even non-Catholics sense an obligation to attend religious service, there is great danger that some of them may intermingle among the faithful and join in our Holy Saturday services. It rests upon the clergy to see to it that non-Catholics do not take part in the candle lighting nor in the renewal of the baptismal vows. To take part in these services of Holy Saturday would be more intimate and active, and hence more serious than that which non-Catholics are liable to on Ash Wednesday and Palm Sunday. If the number who participate are few and known, they are to be instructed privately either by speaking to them directly or indirectly through their friends. If many participate, then a public instruction — prudently given — may be necessary. However, if at the time of the services, one notices that non-Catholics are present, because of the grave inconvenience to exclude them they may be permitted to participate. To repeat this *modus agendi* frequently under the pretext of *grave incommodum* is to turn into general abuse a principle that may be used rarely and in unforeseen circumstances. Steps must be taken that the incident does not recur.

#### ARTICLE V — DIALOGUE MASS AND CONGREGATIONAL SINGING

In the dialogue Mass, the faithful say their prayers instead of leaving them to the server.<sup>27</sup> There are various ways in which the faithful take part and carry out in outward form a more active role in the offering of the Mass.<sup>28</sup> Through a participation of this kind, they are given the opportunity of expressing outwardly the inward reality of what the Mass really is, namely, a communal worship.

<sup>27</sup> Cf. Encyclical *Mediator Dei*, nn. 105-106.

<sup>28</sup> The Sacred Congregation of Rites, on November 30, 1935, in a *private* reply to the Archbishop of Genoa, stated that it is for the Ordinary of the place to decide in each case whether the practice of the *missa dialogata* is to be introduced. The participation of the people in the dialogue Mass extends from the more simple form, as answering the same prayers which the Mass server answers, to that wherein they recite with the priest the *Gloria*, *Credo*, *Sanctus*, *Benedictus*, and the *Agnus Dei*. They are not to join in on the Secret, Canon, and the words of the Consecration. Cf. *Periodica*, XXV (1936), 61-62.

As the dialogue Mass affords the faithful a more active role in the *missa lecta*, congregational singing offers them the same in the *missa cantata*. What previously had been the office of the choir, has, in these instances, been handed over to the congregation. Steps have been taken and progress has been made in the Liturgical Movement by the revival of plain chant and the teaching of it to the people, especially to the children. All this has been done in obedience to the command of Pius XI: "In order that the faithful may take a more active part in divine worship, let that portion of the chant which pertains to the congregation be restored to popular use." <sup>29</sup>

Priests must guard against non-Catholics taking part in the dialogue Mass and in the congregational singing. If, as Augustine rightly observes: "Passive attendance may be understood as an inactive and inert participation which excludes the recitation of prayers in common with the faithful," <sup>30</sup> then non-Catholics must be excluded from reciting the prayers with the congregation at the dialogue Mass. The same author has this to add: "Congregational singing of liturgical songs, or participation therein, would fall under active assistance." <sup>31</sup> Hence, any participation by non-Catholics in congregational singing is likewise prohibited.

Circumstances may warrant granting exceptions to this general rule, particularly in the case of non-Catholic children attending our schools. A decree of the Holy Office, January 20, 1906, permitted schismatic girls attending a Catholic school to sing with the Catholic children at Benediction.<sup>32</sup> Provided the same significant circumstances which prompted the above favorable reply of the Holy Office can be ascertained, one could permit non-Catholic children to participate in congregational singing. The circumstances, which prompted the favorable reply, were: no danger of scandal, hope of conversions, the good faith of the children, and the difficulty to remove them. Beste would refuse non-Catholics permission to sing in the choir if the choir occupies a place in the sanctuary; but he

<sup>29</sup> Encyclical *Divini Cultus*—AAS, XXI (1929), 39 (AER trans. LXXX [1929], 507).

<sup>30</sup> *A Commentary on Canon Law*, VIII, p. 178.

<sup>31</sup> *Op. cit.*, p. 177, note 40.

<sup>32</sup> *Fontes*, n. 1276.

tolerates their singing with Catholics provided they are outside the sanctuary in the nave of the Church.<sup>33</sup> There seems to be no objection in permitting non-Catholic children to participate also in the dialogue Mass, if the same conditions are present. This conclusion is drawn on the comparative basis of the two acts participated in; participation in the dialogue Mass is no more proximate nor more active than singing in the choir.

#### ARTICLE VI — SERVERS AT MASS

Non-Catholics are not permitted to serve Mass because of the implied irreverence involved in such *communicatio in sacris*. The Holy Office has forbidden the sons of schismatics<sup>34</sup> or heretics<sup>35</sup> to minister to the priest in the celebration of the sacred mysteries. While certain authors, as Ferreres,<sup>36</sup> Merkelbach,<sup>37</sup> McHugh and Callan,<sup>38</sup> Davis,<sup>39</sup> and Slater<sup>40</sup> simply deny them this privilege, Vermeersch<sup>41</sup> and Iorio<sup>42</sup> add that they fall under this ban even though they are under fourteen years of age.

Under no circumstances has the Church permitted non-Catholics to serve Mass. Her legislation has been unyielding on this point because the office of the server is intimately bound up with the Mass; much more so than that of the singers or organists. In answering the prayers and ministering to the priest at the altar, he represents the whole congregation. Canon 813 bears out the importance of his assistance: A priest shall not celebrate Mass without a server to assist him and to recite the responses.<sup>43</sup>

<sup>33</sup> Beste, Udalricus, *Introductio In Codicem* (3. ed., Collegeville, Minn.: St. John's Abbey Press, 1946), p. 615.

<sup>34</sup> S. C. S. Off., 20 nov. 1850—*Coll. S. C. P. F.*, n. 1053.

<sup>35</sup> S. C. S. Off., 30 iunii et 7 iulii 1864—*Coll. S. C. P. F.*, n. 1257 ad 2.

<sup>36</sup> *Compendium Theologiae Moralis*, I, n. 293.

<sup>37</sup> *Summa Theologiae Moralis*, I, n. 583.

<sup>38</sup> *Moral Theology*, I, n. 960.

<sup>39</sup> *Moral and Pastoral Theology*, III, p. 116.

<sup>40</sup> Slater, Thomas, *Manual of Moral Theology* (5. ed., 2 vols., London: Burns Oates and Washbourne, 1925), II, p. 121.

<sup>41</sup> *Theologia Moralis*, II, n. 51.

<sup>42</sup> *Theologia Moralis*, I, n. 238.

<sup>43</sup> Canon 813, §1: Sacerdos Missam ne celebret sine ministro qui eidem inserviat et respondeat.

May a missionary use a catechumen to fulfill this office? In view of the canonical importance of having a server and the recent leniency of the Church with regard to non-Catholic children singing at Mass,<sup>44</sup> it would seem permissible to employ a catechumen as a server, if no Catholic server is available. A missionary would be apt to find himself in this predicament in areas where Catholics are very few.

#### ARTICLE VII — ACOLYTES, THURIFERS, ETC.

Nor are non-Catholics permitted to take the part of acolytes or thurifers at sacred functions. Any participation in the externals that enhance the splendor of the liturgy is considered active; and hence their participation is forbidden.

Augustine<sup>45</sup> expressly forbids giving non-Catholics the duties of a sacristan. Pohle,<sup>46</sup> who also considers sacristans as active participants in the Mass, would agree with him. Likewise, non-Catholics should ordinarily be forbidden to handle or prepare, either in the sacristy or at the altar, those things which directly and immediately pertain to the sacrifice of the Mass.<sup>47</sup>

In the Armed Forces it may happen that a non-Catholic is assigned to the Catholic Chaplain as his assistant. In such a case, the non-Catholic could be permitted to fulfill the office of the sacristan, but he should not be permitted to serve Mass.

#### ARTICLE VIII — STIPENDS FROM NON-CATHOLICS

Distinct from the application of Mass for non-Catholics, but related to it in a way, is the question: Whether a priest may accept Mass stipends from non-Catholics. The answer to this question

<sup>44</sup> Cf. *supra*, p. 105.

<sup>45</sup> *A Commentary on Canon Law*, VIII, p. 177.

<sup>46</sup> Joseph Pohle, "Mass, Sacrifice of the," *The Catholic Encyclopedia*, Vol. X (1913), p. 19.

<sup>47</sup> Strictly speaking, janitors do not come under this ban, because the tasks they perform are remotely related to the divine worship. Their activity is rather one of "cooperation" than *communicatio in sacris*.

depends upon what we mean by a stipend.<sup>48</sup> A certain few who view the offering of the stipend as a species of *communicatio in sacris* maintain stipends may not be accepted from non-Catholics.<sup>49</sup> The renowned theologian on the Eucharist, De la Taille, belongs to this group. He argues thus: Stipends may not be accepted from non-Catholics because the donor of a stipend shares in the Mass as a co-offerer. Only members of the Church may co-offer with the priest. Since non-Catholics cannot share in the Mass, to take money from them for this purpose is tantamount to simony. However, the noted author would permit accepting a stipend from a heretic if he requests the Mass to be offered to obtain the grace of conversion. Likewise, a priest may accept money from an unbeliever as a gift, and then out of charity and gratitude offer a Mass for his intention.<sup>50</sup>

Hervé thinks De la Taille is too severe.<sup>51</sup> The assertion that the acceptance of a stipend from a non-Catholic amounts to simony is not convincing, says Doronzo.<sup>52</sup> And disagreeing with De la Taille on the question of co-offering, he adds: "nam stipem dans non fit necessario coofferens nisi sit capax, et aliunde obligatio sacerdotis applicandi sacrificium pro stipendio fundatur in lege Ecclesiae." Nor are the arguments by which De la Taille<sup>53</sup> tries to explain the

<sup>48</sup> The stipend is not the equivalent of the Mass. As St. Thomas says: "Sacerdos non accipit pecuniam quasi pretium consecrationis Eucharistiae . . . hoc enim esset simoniacum, sed quasi stipendium suae sustentationis." (II, II, q. 100, a. 2 ad 2) As an alms it is meant for the celebrant's support, and corresponds in a way to the offerings of bread and wine which the faithful gave in earlier times for the clergy and the sacrifice of the Mass.

<sup>49</sup> Cf. Doronzo, *De Eucharistia*, II, p. 1121.

<sup>50</sup> Cf. *The Mystery of Faith*, II, th. XXX, pp. 290-291; pp. 319-320.

<sup>51</sup> *Manuale Theologiae Dogmaticae*, IV, n. 142, nota 2.

<sup>52</sup> *Loc. cit.*

<sup>53</sup> Referring to the decision of the Holy Office, July 12, 1865, and answering in the first person, De la Taille says: "I Reply: this decision, even without any mention of pontifical approbation, has its own authority, and high authority, too; and therefore if, as appears at first sight, it is to be interpreted of a monetary pact, it may be acted on with a safe conscience, as long as the decision remains unchanged. But meanwhile the interpretation, as of a monetary pact implied by the alms, is somewhat doubtful. Quite possibly the word alms here may have another meaning. Might not the alms be offered and accepted in this case in such a way that it would be considered that neither the person who gave the alms was thereby constituted the offerer or the author

decisions of the Sacred Congregation persuasive. With subtlety he tries to extricate himself from difficulties which are there precisely because he insists the donor of the stipend co-offers in the Mass. The decisions of the Sacred Congregation stand out against him, and upon these the opposition leans for its support.

Moralists as Vermeersch,<sup>54</sup> Noldin-Schmitt,<sup>55</sup> Genicot-Salsmans,<sup>56</sup> Merkelbach,<sup>57</sup> Iorio,<sup>58</sup> Aertnys-Damen;<sup>59</sup> Canonists as Cappello,<sup>60</sup> Augustine,<sup>61</sup> and Theologians as Billuart,<sup>62</sup> Hervé,<sup>63</sup> form a group by far more numerous and weighty, which holds that Mass stipends may be accepted from schismatics, heretics, and infidels, and from all except the excommunicated *vitandus*.<sup>64</sup> In the way of principle, Vermeersch states: "provided scandal and superstition is avoided, stipends may be accepted from those for whom Mass may be offered." <sup>65</sup> As long as the Mass may be celebrated for them according to the statutes of Canon 809, stipends for the same may be

of the sacrifice, nor did the person who received it contract any obligation either in justice or fidelity, but merely signified by his acceptance of it his intention of offering out of charity and gratitude, for the benefit of others by way of suffrage . . ." *The Mystery of Faith*, II, th. XXX, pp. 292-293. The author thinks the same interpretation ought to be given to the decision of S. Congr. of the Propagation of the Faith, March 11, 1848 (*Coll. S. C. P. F.*, n. 1027). These decisions will be referred to again under the application of Mass to living infidels. Cf. *infra* p. 119.

<sup>54</sup> *Theologia Moralis*, III, n. 308.

<sup>55</sup> *Summa Theologiae Moralis*, III, n. 178.

<sup>56</sup> Genicot, E. et Salsmans, J., *Casus Conscientiae* (8. ed., Bruxellis: L'Edition Universelle, 1947), Casus 721.

<sup>57</sup> *Summa Theologiae Moralis*, III, n. 356.

<sup>58</sup> *Theologia Moralis*, III, n. 182.

<sup>59</sup> *Theologia Moralis*, II, n. 193.

<sup>60</sup> *De Sacramentis*, I, n. 613.

<sup>61</sup> *A Commentary on Canon Law*, IV, p. 145.

<sup>62</sup> Billuart, C. R., *Theologia Moralis Juxta Mentem D. Thomae* (Parisiis: Apud Victorem Lecoffre, 1895) IV, De Religione, Dis. 2., art. 6.

<sup>63</sup> *Manuale Theologiae Dogmaticae*, IV, n. 141, nota 2.

<sup>64</sup> Cardinal Gasparri is very clear on this point: "However, when applying Mass for an excommunicated person, we must be very careful, if he is a *vitandus*, not to communicate with him; hence, for example, we cannot accept from him an alms for the application of the Mass." *Tractatus Canonici de SS. Eucharistia* (2 vols., Parisiis: Delhomme et Brigue, 1897), I, n. 483.

<sup>65</sup> *Theologia Moralis*, III, n. 308.

accepted from non-Catholics.<sup>66</sup> Stipends may be accepted from them for Masses to be celebrated either for themselves or others.<sup>67</sup> Where the former law had expressly permitted accepting stipends from unbelievers, now many extend this to heretics and schismatics. But Coronata<sup>68</sup> in particular holds on to the distinction laid down in the pre-Code decisions of the Sacred Congregations. He permits a priest to accept stipends from infidels for intentions even of temporal nature, but from heretics and schismatics only under the manifest condition that the Mass will be offered for their conversion. There seems to be no reason for this distinction today; Canon 809 has removed it.

#### ARTICLE IX — THE APPLICATION OF MASS FOR NON-CATHOLICS..

From every Mass offered,<sup>69</sup> not only the priest who offers, and the faithful who attend, and the ones for whom the Mass is especially applied, but all mankind, non-Catholics included, share in the fruits, the *fructus generalis* of the Mass.<sup>70</sup> If heretics and infidels are passive recipients of these fruits, it is mainly that their conversion may be thus effected.<sup>71</sup>

<sup>66</sup> Iorio, *Theologia Moralis*, III, n. 182.

<sup>67</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 178.

<sup>68</sup> *Institutiones Iuris Canonici*, II, n. 836.

<sup>69</sup> Authors do not follow the same division for the fruits of the Mass. Whatever their divisions may be, they essentially are the same. According to one group, the division is fourfold: (1) *fructus generalis*, which accrues first to the faithful and then to all, even though no application is made; (2) *fructus specialis*, which those who assist at Mass receive and may laudably apply to others; (3) *fructus specialissimus*, which falls to the celebrant himself; and (4) *fructus ministerialis*, which benefits the person for whom the Mass has been expressly applied. Cf. Prümmer, *Manuale Theologiae Moralis*, III, n. 243. The other group adopts a threefold division of *fructus generalis*, *specialis* and *specialissimus*. Cf. Merkelbach, *Summa Theologiae Moralis*, III, n. 350. What Prümmer places under the special fruits, Merkelbach includes in the general; what the former calls ministerial, the latter calls special.

<sup>70</sup> The Sacrifice of the Mass is offered *pro nostra et totius mundi salute* (Ordo Missae, Ad Offertorium). Being members of the Church, the faithful have a greater share in the general fruits of the Mass than non-Catholics who are not members of it. Cf. Vermeersch, *Theologia Moralis*, III, n. 283.

<sup>71</sup> Merkelbach, *Summa Theologiae Moralis*, III, n. 350.

Everyone admits that any of the laity assisting, any celebrating priest also — mentally, however, in his own private name, just as any of those assisting — can commend to God in the Sacrifice any and everyone, even non-Catholics.<sup>72</sup> The faithful assisting at Mass may freely beseech God and allow their non-Catholic friends to share in the fruits which fall to them by reason of their assistance at Mass. Nor can there be any doubt that the priest, while offering, may privately apply the *fructus specialissimus* to non-Catholics.<sup>73</sup>

Ordinarily when we speak of "having a Mass said," we mean its being offered to gain the special or the ministerial fruits.<sup>74</sup> The intention is to have the *fructus specialis* (or *ministerialis*) applied to a particular living or deceased person. Actually, this application exclusively rests with the priest, and he makes it either according to his own free intention or according to the intention of the one who gave the stipend.<sup>75</sup>

Our pre-occupation here is whether the special fruits of the Mass may be applied for the welfare of non-Catholics. Previous to the Code, this question was greatly controverted. But thanks to its promulgation, much uncertainty has since been lifted. Partly out of reverence for the Holy Sacrifice and partly to avoid scandal, the Church has always surrounded the application of the Mass with certain restrictions. Priests are bound to observe the legislation which restricts the manner of applying the Mass to certain classes of the living and the dead.<sup>76</sup> According to her sacred canons,

<sup>72</sup> De la Taille, *Mystery of Faith*, II, p. 315, note 2.

<sup>73</sup> It is disputed whether the *fructus specialissimus* can be applied to others. Vermeersch (*loc. cit.*), however, notes that these fruits can be applied *by way of intercession* to others. Prümmer (*loc. cit.*) sees no reason why they cannot be applied to others; neither Holy Scripture, nor Tradition, nor any of the Definitions of the Church forbid it.

<sup>74</sup> The *fructus specialis* or *ministerialis* is the special fruit or benefit of the Mass offered in the name of Christ and the Church for a determined end or person.

<sup>75</sup> Cf. Prümmer, *Manuale Theologiae Moralis*, III, n. 246.

<sup>76</sup> According to Noldin-Schmitt: "Applicatio contra legem ecclesiae facta illicita quidem, non tamen invalida est; hinc si sacerdos pro eiusmodi applicatione stipendium accepit, applicatione facta ad eius restitutionem non tenetur. Si quis tamen contra prohibitionem ecclesiae pro excommunicato vitando missam offerat, fructus, qui respondet missae, prout in persona Christi

the Sacrifice of the Mass may be offered for all, both the living and the dead; non-Catholics are not excluded.<sup>77</sup> However, if it is offered for them, because they are either unbaptized or excommunicated,<sup>78</sup> it must be said privately and without giving scandal.

Two provisions, *privatim . . . applicare* and *remoto scandalo*, make up the general principle which governs the application of Mass to living and deceased non-Catholics. What is precisely meant by *privatim . . . applicare* and *remoto scandalo* the Code does not clearly state. Augustine identifies *privatim applicare* with *missa privata*, and thus excludes the conventual, parochial, and solemn Masses.<sup>79</sup> Coronata adds chanted Masses to this list.<sup>80</sup> This opinion supposes that all external pomp and solemnity is excluded.<sup>81</sup> Wernz-Vidal speak of a "*privata et secreta missae applicatio.*"<sup>82</sup> To keep offertur, valide ei applicatur, fructus autem, qui respondet missae, prout nomine Ecclesiae offertur, nec licite nec valide ei applicatur. *Summa Theologiae Moralis*, III, n. 178.

<sup>77</sup> Canon 809: Integrum est Missam applicare pro *quibusvis* tum vivis, tum etiam defunctis purgatorio igne admissa expiantibus, salvo praescripto can. 2262, §2, n. 2—which in turn reads: Non prohibentur tamen: Sacerdotes Missam privatim ac remoto scandalo pro eo (excommunicato) applicare; sed, si sit vitandus, pro eius conversione tantum.

<sup>78</sup> Before the Code, it was disputed whether the special or ministerial fruits of the Mass could be applied to infidels and heretics. Many, as for instance Billot, denied that the satisfactory fruits produced by the Mass *ex opere operato* could be licitly and validly applied to living non-Catholics who, because they are outside the Mystical Body, may not share in the *bonum proprium* of the Church. As for the souls in purgatory, Billot believed Mass could be applied to all, even to the non-baptized, because there the reason for such distinctions ceases. In purgatory all the souls belong to the Church Suffering. Some, on the other hand, held that by applying the Mass for the peace and prosperity of the Church, this indirectly benefited the infidels and heretics in so far as it had their conversion in mind. However, it was generally admitted that all living (Catholics and non-Catholics) and the souls in purgatory could participate in the impetratory fruits of the Mass, but they doubted whether the non-baptized could share in the satisfactory fruits. Cf. Billot, *De Eucharistia*, th. LV, pp. 637-640.

<sup>79</sup> *A Commentary on Canon Law*, VIII, p. 185.

<sup>80</sup> *Institutiones Iuris Canonici*, IV, n. 1775.

<sup>81</sup> Cappello, *De Sacramentis*, I, n. 590; Augustine, *A Commentary on Canon Law*, IV, p. 144.

<sup>82</sup> Wernz, F. X.,—Vidal, P., *Ius Canonicum ad Codicis Normam Exactum* (Romae: Apud Aedes Universitatis Gregorianae, 1937), VII, n. 278.

within the bounds of the Code, private application requires that the Mass be celebrated both without any external solemnity and without the publication of the names for whom the Mass is applied.

To sum up all, *privatim applicare* means more than internal application. To remain private, the public and solemn celebration of Mass, the public announcement of the intention for whom the Mass is offered, the insertion of the name of the deceased in the special prayers of the *Missa de Requie* — all must be omitted. Many<sup>83</sup> believe the insertion of the special prayer *pro hoc defuncto* must also be excluded; Davis<sup>84</sup> thinks not.

The moral provision, *remoto scandalo*, which constantly haunts all *communication in sacris*, must likewise be observed if the application is to be licit. Here this provision entails that the names of the non-Catholics for whom the application is made be kept secret.<sup>85</sup> To obviate scandal, it is necessary that the application for such be omitted from the regular Mass announcements, the parish bulletin, and other means of public notice. The secret, however, would not be broken if the application is made known to the immediate members of the family (parents and children) or to one or the other friends. But if these few desired to attend the Mass in a manner and under circumstances which are so unusual that the secrecy of the application would thereby be given away to others, it would seem that the priest would have to refuse to offer the Mass under such conditions.

We cannot overlook the reason why the Church has made these canonical restrictions. Without them there is danger that the faithful would hold the penalty of excommunication for little or no account, or would believe one could serve God and save his soul equally as well in heresy as in the Catholic Church.<sup>86</sup>

The canonical restrictions, *privatim . . . applicare* and *remoto scandalo*, concern the application of Mass to determined individuals.

<sup>83</sup> Regatillo-Zalba, *Theologiae Moralis Summa*, III, n. 144; Vermeersch, *Theologia Moralis*, III, n. 308; Aertnys-Damen, *Theologia Moralis*, II, n. 194; Piscetta-Gennaro, *Elementa Theologiae Moralis*, V, n. 423.

<sup>84</sup> *Moral and Pastoral Theology*, III, p. 96.

<sup>85</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 178; Merkelbach, *Summa Theologiae Moralis*, III, n. 356.

<sup>86</sup> Genicot-Salsmans, *Institutiones Theologiae Moralis*, II, n. 112.

No matter how noble the occasion of the intention, it is ordinarily forbidden to celebrate Mass publicly for individual heretics or schismatics. Even in the case of an infidel there would always be danger of scandal. However, nothing prevents a priest from offering a Mass publicly for the conversion of heretics or schismatics or infidels *in general*. In fact, two votive Masses of the Missal, *Missa pro Firei Propogatione* and *Missa ad Tollendum Schisma*, are intended for just such purposes.<sup>87</sup>

### A. Heretics and Schismatics

#### 1. Living

In view of Canon 2262, §2, 2°, it is commonly held that Mass may be offered for living heretics or schismatics privately.<sup>88</sup> The Canon speaks of excommunicated persons, and in Canon Law baptized non-Catholics are treated as excommunicated persons.

Formerly the Church dealt more severely with the heretics and schismatics than with infidels.<sup>89</sup> While she permitted Masses to be offered privately for infidels, her theologians disputed whether the same could be done for heretics and schismatics. Suarez<sup>90</sup> and Vasquez<sup>91</sup> refused heretics and schismatics this privilege because they were censured with the ecclesiastical pain of excommunication; but others,<sup>92</sup> and they were numerous, excluded only the *vitandi*.

The present law, which on the whole, is more generous, retains the distinction between the tolerated excommunicate and the *vitandus*. Only for the *vitandus* is the intention for whom the Mass may be offered to be restricted.<sup>93</sup> For him it may be offered only

<sup>87</sup> Cf. Francis J. Connell, "Public Mass for Non-Catholics"—*AER* (1949), 63.

<sup>88</sup> Vermeersch, *Theologia Moralís*, III, n. 308; Noldin-Schmitt, *Summa Theologiae Moralís*, III, n. 178; Aertnys-Damen, *Theologia Moralís*, II, n. 193; Fanfani, *Manuale Theologiae Moralís*, IV, n. 216.

<sup>89</sup> Cappello, *De Sacramentis*, I, nn. 618-619.

<sup>90</sup> Suarez, *De Censuris*, Disp. 9, sect. 2.

<sup>91</sup> Vasquez, *De Excommunicatione*, dub. 2.

<sup>92</sup> Cf. Doronzo, *De Eucharistia*, II, pp. 1122-1125.

<sup>93</sup> Canon 2262, §2, 2°: Non prohibentur tamen: Sacerdotes Missa privatim ac remoto scandalo pro eo (excommunicato) applicare; sed, si sit vitandus, pro eius conversione tantum.

for his conversion; for the tolerated, to which group heretics and schismatics belong, Mass may be offered privately for the peace of their souls, the recovery of their health, etc. In fine, Mass may be offered privately for their spiritual and temporal welfare.<sup>94</sup>

Of practical importance is the question: May a priest offer a Mass publicly for an official of the state, e.g., the president on the day of his inauguration? Vermeersch,<sup>95</sup> Genicot-Salsmans,<sup>96</sup> and others,<sup>97</sup> allow a Mass to be offered *publicly* for a living excommunicated ruler, provided it is intended for the ruler in his official capacity and the prosperity of the land. Dorenzo reminds us such a Mass may be offered on the day of his inauguration, but not on his birthday or name's day.<sup>98</sup>

## 2. Deceased

Practically the same rules are to be observed in the application of Mass for deceased heretics and schismatics as for the living. Besides the provision of applying Mass privately in the case of the deceased, Ayrinhac<sup>99</sup> adds another provision, that Mass may be applied for them *conditionally*. Mass may be applied *privately* and *conditionally* for the souls of non-Catholics for whom we can entertain some hope of salvation.

The Code contains other restrictions for the application of Mass to deceased heretics and schismatics. Elsewhere, in a group of canons,<sup>100</sup> it states that those to whom ecclesiastical burial is denied, the *Missa exsequialis* is likewise to be refused. But ecclesiastical burial is denied to all heretics and schismatics; hence, no funeral Mass, nor any anniversary Mass, may be celebrated for them, even though the other public funeral services are also omitted.

<sup>94</sup> Cf. Seraphinus a Loiano, who in a more general way says Mass may be offered for them "ad quemcumque honestum finem." *Institutiones Theologiae Moralís*, IV, p. 199.

<sup>95</sup> *Theologia Moralís*, III, N. 308.

<sup>96</sup> *Institutiones Theologiae Moralís*, II, n. 112.

<sup>97</sup> Augustine, *A Commentary on Canon Law*, IV, p. 144; Sabetti-Barrett, *Theologia Moralís*, n. 704.

<sup>98</sup> *De Eucharistia*, II, p. 1120.

<sup>99</sup> *Legislation on the Sacraments*, n. 86.

<sup>100</sup> Canons 1239, 1240 and 1241.

Not even rulers or persons of royal blood, if they have died in the external and notorious profession of heresy, are to be honored with any Catholic religious rites. An abuse of this sort occasioned Gregory XVI to declare such action was forbidden by the ancient and new discipline of the Church.<sup>101</sup> It is also to be noted that the same authors who<sup>102</sup> above permitted the public celebration of Mass in the case of a living excommunicated ruler, do not extend a similar privilege to deceased non-Catholic rulers. Genicot-Salsmans think a dispensation is needed.<sup>103</sup> Vermeersch says, "omnino prohibetur,"<sup>104</sup> What was granted in the case of a living ruler Sabetti-Barrett believe is forbidden in the case of a deceased heretic or schismatic ruler.<sup>105</sup>

Genicot-Salsmans give a peculiar case in which a priest would have to refuse solemn *exsequies* for a queen who died in heresy, even though it meant many Catholics would otherwise attend such services for her in a Protestant church. They argue that the private participation of Catholics is not to be offset by allowing a non-Catholic public participation in our worship. If the priest feared that the Church's interest would suffer because of this refusal, he should refer the case to his Ordinary, who in turn could consult the Holy See whether it wishes to grant a dispensation in this case.<sup>106</sup>

Notice the case refers to solemn *exsequies*; whether the body was present or not it does not mention. Such requests cannot be granted because Canon 1241 deprives non-Catholics of any funeral Mass, even an anniversary Mass, as well as all other public funeral services.

The occasion of a non-Catholic president's death may warrant the public celebration of a Mass for the peace and welfare of the nation. But it is highly questionable, in view of the above restrictions and opinions, whether a Requiem Mass could be sung. A Requiem

<sup>101</sup> Gregorius XVI, ad Episcopum Augustanum, 16 feb. 1842—*Fontes* II, n. 499.

<sup>102</sup> Cf. *supra*, p. 115.

<sup>103</sup> *Institutiones Theologiae Moralis*, II, n. 112.

<sup>104</sup> *Theologia Moralis*, III, n. 308.

<sup>105</sup> *Theologia Moralis*, n. 704.

<sup>106</sup> *Casus Conscientiae*, Casus 722, 2°.

Mass may give the faithful the impression that the Mass is being offered for the soul of the deceased official.<sup>107</sup>

Not long ago, several newspapers carried accounts of Masses being celebrated publicly for a deceased non-Catholic President. The newspaper writers who gave these reports misunderstood them because they were not familiar with the subtle distinctions of theology and liturgy. Actually, the Masses were offered for the welfare of the nation and not for the soul of the deceased President. The legislation of the Church forbids offering a public Mass for the repose of the soul of one who died outside her communion, no matter how sincere his faith or how exalted his official position.<sup>108</sup>

Rather than cause confusion by celebrating Mass publicly and solemnly, even though the main purpose of the solemnity and the Mass is intended for the welfare of the nation, it would be more in agreement with the mind of the Church to say Mass privately and ask the faithful to pray privately for the soul of the deceased non-Catholic official.

Because of a decision of the Holy Office,<sup>109</sup> theologians disagree whether Mass may be applied to those *qui in manifesta haeresi moriuntur*. This decision forbade offering Mass for those who died in manifest heresy, even though the intention is known only to the priest or to the one who gives the stipend. Notwithstanding the dispute concerning the interpretation of this decision, a favorable and acceptable solution is found for such souls also. The tenor of this decision, according to some,<sup>110</sup> does not forbid private application, provided it is made indirectly and not directly, i.e., the priest may accept the offering, but must inform the donor the Mass will be applied for *all the souls*, with the intention of succoring the particular person if it pleases God.

There is no dispute concerning the heretics or schismatics who die in good faith. By placing emphasis on "*qui in manifesta haeresi*

<sup>107</sup> Cf. Cappello, *De Sacramentis*, I, n. 619.

<sup>108</sup> Cf. Francis J. Connell, "Suffrages for a Deceased Non-Catholic"—*AER*, CXIII (1945), 220; P. J. Lydon, "Quaesita et Responsa"—*The Priest*, Vol. I, n. 12 (1945), p. 50.

<sup>109</sup> S. C. S. Off., 7 aprilis 1875—*Coll. S. C. P. F.*, n. 1440.

<sup>110</sup> Gasparri, *De SS. Eucharistia*, I, n. 491; Sabetti-Barrett, *Theologia Moralis*, n. 704; Augustine, *A Commentary on Canon Law*, IV, p. 146.

moriantur," the Sacred Congregation had no intention of including in its prohibition those who die in good faith. Hence, if a non-Catholic was not bigoted, and especially if he was friendly disposed toward the Church and allowed his Catholic wife and children to practice freely their faith, or if he died with a contrite heart, Mass may be offered *privately* for his soul.<sup>111</sup> Vermeersch<sup>112</sup> and a host of moralists after him interpret Canon 2262, §2, 2° in support of this principle. Some require probable signs of good faith,<sup>113</sup> while others<sup>114</sup> do not make such explicit demands.

It is worth our while to review what Cappello has to say about this question. He writes: If a heretic or a schismatic has given signs of repentance before death, the Eucharistic Sacrifice can certainly be offered for him publicly; the reason is, because he is then admitted also to ecclesiastical burial (Canon 1240, §2, 1°). If by this Cappello means the heretic or schismatic was converted and reconciled to the Church in his last moments, which no doubt he does, Mass may be said for him publicly, otherwise not. For private application he offers a principle, whose terms are quite general but not necessarily too generous: If a heretic or a schismatic had not given signs of repentance before death, Mass may be celebrated, but only privately and scandal being obviated; for there is no express prohibition of the Church against applying the Holy Sacrifice for such heretics or schismatics.<sup>115</sup>

<sup>111</sup> Augustine, *loc. cit.*

<sup>112</sup> *Theologia Moralis*, III, n. 308.

<sup>113</sup> Aertnys-Damen, *Theologia Moralis*, II, n. 193.

<sup>114</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 178; Prümmer, *Manuale Theologiae Moralis*, III, n. 350; Merkelbach, *Summa Theologiae Moralis*, III, n. 356.

<sup>115</sup> "Si haereticus vel schismaticus ante mortem aliqua dederit poenitentiae signa, sacrificium eucharisticum certe potest pro eo offerri et quidem *publice*; ratio est, quia tunc ad ipsam quoque sepulturam ecclesiasticam admittitur (can. 1240, §2, 1°);—si *poenitentiae* signa non dederit ante mortem, Missa celebrari potest, sed solum *privatim* et *remoto scandalo*; nulla enim adest expressa prohibitio Ecclesiae applicandi sacrificium pro tali haeretico vel schismatico." *De Sacramentis*, I, n. 619.

## B. Infidels

## 1. Living

Before the Code, some authors denied that Mass could be applied directly to infidels.<sup>116</sup> But Canon 809 has settled the question by allowing Mass to be applied *pro quovis vivis*, excepting only those whom the Church wishes to exclude. Being unbaptized, and hence not subject to excommunication, Mass could *per se* be offered for infidels publicly. But, as several moralists<sup>117</sup> note, this is forbidden *per accidens* because of the danger of scandal, and thus may not be followed ordinarily.

Mass may be offered privately for such unbaptized persons as Hindus, Mohammedans, Jews, etc.<sup>118</sup> Also to be included among these are the many so-called Protestants who are either baptized invalidly or not baptized at all.

In times past, the Church has allowed Masses to be said for living unbaptized persons. The Holy Office permitted Mass to be offered for an unbaptized sick person that he be restored to health, or for such one condemned to death that he recover his liberty or escape the penalty of death.<sup>119</sup> On another occasion, it conditioned the permission of saying Mass for an unbaptized person with the following: provided no scandal is given to the faithful in offering the Mass, that nothing special is added to the Mass, and provided there is nothing evil or false or superstitious in the person offering the stipend, if such a person be unbaptized.<sup>120</sup>

Davis would permit a public and solemn Mass for a pagan ruler, actually ruling, on the ground that the Mass is being offered for supreme civil authority and for the good of the state.<sup>121</sup> This opinion is in accordance with what has been said above about living heretic and schismatic rulers. The legislation of the Church in these matters has been more kind to infidels than to heretics and schismatics.

<sup>116</sup> Cf. Fanfani, *Manuale Theologiae Moralis*, IV, n. 216.

<sup>117</sup> Fanfani, *loc. cit.*, Aertnys-Damen, *Theologia Moralis*, II, n. 193; Jone-Adelman, *Moral Theology*, n. 526.

<sup>118</sup> Cf. Augustine, *A Commentary on Canon Law*, IV, p. 144.

<sup>119</sup> S. C. de Prop. Fide., 11 mar. 1848—*Coll. S. C. P. F.*, n. 1027.

<sup>120</sup> S. C. S. Off., 12 iulii 1865—*Coll. S. C. P. F.*, n. 1274.

<sup>121</sup> *Moral and Pastoral Theology*, III, p. 97.

## 2. Deceased

As for deceased infidels or unbaptized persons, Augustine says he knows of no decision which either forbids or permits the application of Mass for them.<sup>122</sup> Iorio notes that infidels who are detained in purgatory are capable of receiving the fruits of the Mass, notwithstanding that baptism is a prerequisite for the reception of the other sacraments. We are not concerned here with the reception of a sacrament. The sacrifice of the Cross of which the Mass is a continuous renovation can be of great help to infidels, as it is to the baptized. All the souls detained in purgatory pertain without distinction to the Church Suffering, and as such can be succored especially through the Sacrifice of the Mass.<sup>123</sup>

Being unbaptized, infidels are not subject to the penal laws of the Church. Nor does the present law, as far as the actual wording is concerned, restrict offering Mass for them. But bearing in mind the nature of their case and the teaching of the pre-Code authors, Mass may be offered for them provided the limitations of the law which concern heretics and schismatics are likewise observed, i.e., *privatim ac remoto scandalo*.

Certain authors, as Cappello<sup>124</sup> and Marc-Gestermann<sup>125</sup> add the restriction that private application should not be made *directly* to deceased infidels. Marc-Gestermann, for instance, caution against making the private application to infidels *in particular*. If a priest is given a stipend for a particular infidel, he should inform the donor that the Mass will be offered for all deceased souls with the intention of helping the soul of the particular deceased if this is acceptable to God.

There seems to be no need for any further limitations beyond that demanded by the Code. The majority of manualists<sup>126</sup> simply

<sup>122</sup> *Op. cit.*, IV, p. 146.

<sup>123</sup> *Theologia Moralis*, III, n. 191.

<sup>124</sup> *De Sacramentis*, I, n. 619.

<sup>125</sup> Marc, Clemens, et Gestermann, F. X., *Institutiones Morales Alphonsianae* (19 ed., 2 vols., Lugduni: Vitte, 1933), II, n. 1601.

<sup>126</sup> Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 178; Merkelbach, *Summa Theologiae Moralis*, III, n. 356; Fanfani, *Manuale Theologiae Moralis*, IV, n. 216; Regatillo-Zalba, *Theologiae Moralis Summa*, III, n. 144.

omit the restriction *indirecte* and *in particulari*, and offer the same rule for deceased infidels as for baptized non-Catholics. This benign opinion is more in accordance with the words of Canon 809 which allows Mass to be offered "pro quibusvis tum vivis, tum etiam defunctis," with the restrictions of "privatim ac remoto scandalo."

What has been stated above for deceased heretics or schismatic rulers is applicable here to pagan rulers. On the occasion of the death of a pagan ruler or dignitary, no public application of the Mass is to be made directly for the deceased official. If the Ordinary judges that such an occasion merits some public manifestation on our part, he may permit Masses to be offered publicly for the peace and the welfare of the nation.

Whenever a Mass is offered privately for a deceased non-Catholic, baptized or unbaptized, we suppose that he died with sorrow or was in the state of grace at the moment of his death. Because it cannot be easily known which of these souls stand in need of the fruits of the Mass, Aertnys-Damen remind the priest to make a second intention in such cases, lest the fruits of the Mass offered by him go unapplied to any soul.<sup>127</sup> Fanfani does not think this second intention is necessary; the fruits of the Mass remain in the treasury of the Church for other living and deceased souls.<sup>128</sup>

### C. *An Excommunicated Vitandus*

Today one would rarely find a *vitandus* among heretics or schismatics. This severe penalty is seldom imposed in our times, even upon Catholics. Mass may be celebrated privately for a *living vitandus*, but only for his conversion.<sup>129</sup> It would be a venturesome interpretation of the law to say Mass for a *dead vitandus*, i.e., one who died under such an excommunication. The Code allows it only for his conversion—which after death is impossible.<sup>130</sup>

<sup>127</sup> *Theologia Moralis*, II, n. 93.

<sup>128</sup> Fanfani, in his *Manuale Theologiae Moralis*, IV, n. 215, says: "Imo sunt Auctores qui consulunt hanc secundam intentionem semper facere, ne scilicet aliquis fructus Missae inapplicatus maneat; nobis hoc necessarium non videtur cum semper intelligatur opera expiatoria et fructus non applicata iis pro quibus offeruntur, manere in thesauro Ecclesiae pro aliis vivis vel defunctis."

<sup>129</sup> Canon 2262, §2, 2°.

<sup>130</sup> Augustine, *A Commentary on Canon Law*, VIII, p. 186.

## ARTICLE X — MASS CARDS

In recent years the custom of giving spiritual bouquet Mass cards to one's friends has become widespread in our country. These cards are issued in two forms. They announce either that a Mass will be offered in which only the individual mentioned will participate, or that a Mass will be offered for a group in which the individual mentioned will share along with others. An example of the former is the Mass card issued on the occasion of a person's death; of the latter, the group Mass offered for mothers on Mother's Day. The custom presents no difficulty if Masses are requested by non-Catholics for living or deceased Catholics. As we have noted above, Mass stipends may be accepted from non-Catholics, provided scandal and superstition are obviated.

The case is quite different when one is asked to issue a Mass card announcing that a Mass will be offered for a non-Catholic. In the first place, to quote Woywod-Smith:<sup>131</sup> "It is unreasonable to request a priest to say Mass for a deceased non-Catholic." And to have a priest issue a spiritual bouquet Mass card is even more improper, if the receiver intends to give it to a non-Catholic. A practice of this kind could easily lead to misunderstanding and is not in keeping with the spirit of the Church.<sup>132</sup>

Furthermore, a Mass card may easily amount to a public announcement, especially if it is used in such a manner that many would learn of its contents. Hence, a priest, before issuing a Mass card announcing a Mass for a non-Catholic, should have the assurance that it will not be displayed, for instance on a tray at a wake. To publicize the fact in any way would be wrong. If only a small number, as a few friends or members of the immediate family of the deceased, are informed about the Mass, the law of the Church would not be violated.

A spiritual bouquet Mass card, announcing that a non-Catholic will be included in a group Mass, does not offer as much difficulty. A priest may be justified in issuing a Mass card of this kind under the score that the non-Catholic will be included in a large group for

<sup>131</sup> *Practical Commentary*, I, n. 711.

<sup>132</sup> "Mass Cards"—*AER*, XCVI (1937), 88.

whom a Mass is to be offered. As far as the non-Catholic is concerned, the application is so obscure any anonymous that it may be considered private.<sup>133</sup>

#### ARTICLE XI — PRAYERS AT MASS FOR A NON-CATHOLIC RULER

According to Bouscaren,<sup>134</sup> there is no objection to singing "God Save the King" at a solemn Mass, when the king is a non-Catholic, and praying for him by name at Benediction, as well as for the Holy Father and the Bishop. Prümmer<sup>135</sup> refers to the same decision of the Holy Office as Bouscaren, and permits singing "God Save the King" only after the solemn Mass, *post Missam solemnem*. Bouscaren's opinion is more in accord with the words of the decision. The Holy Office<sup>136</sup> was asked whether: "Ad Missam solemnem ecclesiarum diocesis Quebecensis cantatur pro rege Angliae 'Domine, salvum fac regem' . . ." The answer given was: "In casu et circumstantiis de quibus agitur, esse locum dissimulationi et tolerantiae." On another occasion when asked what instructions should be given to the Bishop of Santorino, in Greece, who permitted the prayer "Domine, salvum fac praesidem" to be said at public services for a schismatic president in order not to incur his indignation, the Holy Office<sup>137</sup> simply replied: "Esse annuendam."

May that which has been conceded to the above be extended to our President? We think not.<sup>138</sup> To do so would be introducing an innovation in the public prayers of the Church. But changes in the public prayers of the Church may not be made except by proper authority.

<sup>133</sup> Francis J. Connell, "Mass For An Excommunicated Person"—*AER*, CXXIV (1951), 392-393.

<sup>134</sup> "Co-operation with Non-Catholics"—*Theological Studies*, III (1942), 487.

<sup>135</sup> *Manuale Theologiae Moralis*, I, n. 525.

<sup>136</sup> S. C. S. Off., 23 feb. 1820—*Coll. S. C. P. F.*, n. 739.

<sup>137</sup> S. C. S. Off., 2 aug. 1830—*Coll. S. C. P. F.*, n. 819.

<sup>138</sup> Cf. *The American Ecclesiastical Review*, LIV (1916), 24.

## ARTICLE XII — SERMONS

Strictly speaking, sermons are not a part of Catholic worship.<sup>139</sup> For this reason the Church has always excepted the assistance at the preaching of the word of God from her prohibitions regarding *communicatio in sacris*.<sup>140</sup> Non-Catholics lack the right to assist at divine services, but not at the preaching of the word of God.<sup>141</sup> Vermeersch voices tradition when he says they may be formally invited to listen to sermons.<sup>142</sup> To listen to sermons, theological lectures, and catechetical instruction is not forbidden. On the contrary, these are some of the best means of enlightening and converting them to the Catholic faith.

<sup>139</sup> Cappello (*Summa Iuris Canonici*, III, n. 514) says this of Catholic sermons. But the same cannot be said of non-Catholic sermons. For some Protestant sects the sermon is the principal form of worship.

<sup>140</sup> Vermeersch-Creusen, *Epitome Iuris Canonici*, III, n. 461.

<sup>141</sup> Canon 2259, §1.

<sup>142</sup> Vermeersch, *Theologia Moralis*, II, n. 50.

## CHAPTER FIVE

### SACRAMENTALS

#### ARTICLE I — THE RECEPTION OF SACRAMENTALS

THE sacramentals are sacred rites, instituted by the Church as an extension of the sacramental system, whereby she employs material objects to bestow favors, both spiritual and temporal, upon their recipients. Their use, Leclercq says, also helps to distinguish the members of the Church from the heretics, who have done away with the sacramentals, or use them arbitrarily and with little intelligence.<sup>1</sup>

Liturgical blessings are either sacramentals in themselves or very frequently constitute the sacramentals. Constitutive consecrations or blessings make persons or things sacred and set them aside for Divine cult. As consecrated objects, they are separated from profane use, having received, as it were, a higher or sacred existence. A person becomes sacred by a blessing, as abbots and consecrated virgins. As Vermeersch-Creusen<sup>2</sup> and Merkelbach<sup>3</sup> note, non-Catholics are incapable of receiving such blessings. Certain material objects, as churches, chalices, and cemeteries, become hallowed by a blessing and may not be lawfully used for profane purposes.

Invocative blessings are intended to confer a spiritual or temporal favor, through the bounty of God, upon persons or objects, without changing their condition or natural state. It is either bestowed upon persons, e.g., as the nuptial blessing which is given to the bride and bridegroom, women are "churched," etc., or it is bestowed upon material objects intended for those who use them, e.g., houses, food, medals, etc., are blessed.<sup>4</sup>

<sup>1</sup> H. Leclercq, "Sacramentals," *The Catholic Encyclopedia*, Vol. XIII (1913), pp. 292-293.

<sup>2</sup> *Epitome Iuris Canonici*, II, n. 467.

<sup>3</sup> *Summa Theologiae Moralis*, III, n. 108.

<sup>4</sup> Cf. Augustine, *A Commentary on Canon Law*, IV, pp. 565-566.

Priests are the ordinary ministers of invocative blessings. According to the *Pontifical*, the following words were said over them at the time of ordination: "Ut quaecumque benedixerint, benedicantur (That whatever they bless, may be blessed)." Inasmuch as the minister of a blessing acts as the representative of the Church and in the name of the Church, his blessing carries a "potestas exigitiva." As such it is no longer a mere prayer. These sacramental benedictions are sometimes called "benedictiones ecclesiasticae."<sup>5</sup> They are to be distinguished from private blessings, which the laity as well as priests can impart. We are not concerned with private blessings.<sup>6</sup>

Blessings are primarily instituted for Catholics. But they can also be conferred, says Canon 1149, upon catechumens and, if no prohibition of the Church intervenes, even upon non-Catholics.<sup>7</sup> Unlike the sacraments which were instituted by Christ, the sacramentals are of ecclesiastical origin. The Church can decide whether or not and under what conditions the sacramentals may be administered to non-Catholics. If in her missionary activities, she should recognize opportunities in which the granting of sacramentals would favor her expansion, she may rightfully be generous with them. If sacramentals are properly administered and devoutly received, they are a very helpful means of conversion; they are a source of actual graces.

The blessings meant in Canon 1149, are those of the *Roman Ritual*, which ordinarily a priest imparts, vested in surplice and stole, according to the prescribed form, accompanied by the Sign of the Cross and very frequently by the use of holy water. When the priest uses the form of blessing approved by the Church and contained in her *Ritual*, it is the Church who blesses by means of her sacred ministry. These blessings form a part of Catholic sacra.

<sup>5</sup> Cf. Pashang, John L., *The Sacramentals According to the New Code of Canon Law*, The Catholic University of America Canon Law Studies, n. 28 (Washington, D. C.: The Catholic University of America, 1925), p. 47.

<sup>6</sup> Fanfani, *Manuale Theologiae Moralis*, IV, n. 52.

<sup>7</sup> Canon 1149: Benedictiones, imprimis impertiendae catholicis, dari quoque possunt catechumenis, imo, nisi obstet Ecclesiae prohibitio, etiam acatholicis ad obtinendum fidei lumen vel, una cum illo, corporis sanitatem.

A. *Blessed Candles, Ashes, and Palms*

According to Canon 1149, non-Catholics may be the recipients of blessings. In view of this Canon, many theologians and canonists hold that sacramentals may be administered to non-Catholics privately, but not publicly. The general impression of Canon 1149 is to be interpreted in the light of a decree of the Holy Office, issued on June 8, 1859, which forbade their administration to non-Catholics *in sacris functionibus*.<sup>8</sup> Vermeersch calls our attention to the particular circumstances *in sacris functionibus* in which the Holy Office prohibited blessed candles, ashes, and palms to be given to heretics. According to him, *in sacris functionibus* is equivalent to being in public.<sup>9</sup> In his *Epitome Iuris Canonici* he makes the observation that as long as the sacramentals are not excluded *natura rei vel prohibitionē ecclesiae* non-Catholics may receive them, but only privately.<sup>10</sup> According to Abbo-Hannan the concession made to non-Catholics should be understood as including all the sacramentals, exclusive of the constitutive blessings; but they are not to be given the sacramentals in the course of public functions.<sup>11</sup>

Noldin-Schmitt<sup>12</sup> and Merkelbach<sup>13</sup> permit private administration almost in the same words: “. . . excluduntur . . . a sacramentalibus, quae singulis in ecclesia administrantur.” Prümmer says: “Acatolici non possunt publice participare . . . in sacramentalibus,” but adds: “Nihil autem obstat quominus acatolici privatim accipiant sacramentalia.”<sup>14</sup> Iorio makes the distinction that it is illicit *in sacris functionibus*, but licit *extra functiones sacras*.<sup>15</sup> Regatillo-Zalba restrict the administration by allowing it *privatim, extra ecclesiam*.<sup>16</sup> McHugh-Callan leave no doubt as to where they stand. In a general statement on sacramentals, they allow giving blessed

<sup>8</sup> Cf. *supra*, p. 53.

<sup>9</sup> *Theologia Moralis*, II, n. 51.

<sup>10</sup> Vermeersch-Creusen, *op. cit.*, II, n. 467.

<sup>11</sup> *The Sacred Canons*, II, p. 421.

<sup>12</sup> *Summa Theologiae Moralis*, II, n. 37.

<sup>13</sup> *Summa Theologiae Moralis*, I, n. 753.

<sup>14</sup> *Manuale Theologiae Moralis*, I, n. 524.

<sup>15</sup> *Theologia Moralis*, I, n. 239.

<sup>16</sup> *Theologiae Moralis Summa*, III, n. 1002.

candles, ashes, palms, and other sacramentals to non-Catholics, but later they condition this general permission: "Non-Catholics may not be invited to take part in the solemn services of receiving ashes on Ash Wednesday, palms on Palm Sunday, and candles on Candlemas Day."<sup>17</sup> Sabetti-Barrett<sup>18</sup> and Coronata<sup>19</sup> refer to the above decree, and forbid public administration.

Augustine,<sup>20</sup> Ayrinhac,<sup>21</sup> Paschang<sup>22</sup> and Davis<sup>23</sup> are more lenient; they permit non-Catholics to receive blessed candles, ashes, and palms publicly. These authors refer to a decree of the Sacred Congregation of Rites, issued on March 8, 1919. However, they have read more in the decree than is actually contained therein. What had been intended for catechumens, they have extended to non-Catholics. The Sacred Congregation had been asked: "Whether the blessings which, according to c. 1149, though primarily intended for Catholics, may also be given to catechumens, include also sacramentals publicly administered; so that the catechumens may be admitted to the imposition of ashes, the giving of candles, and of palms." It answered: "In the affirmative."<sup>24</sup>

Two points about which there was some doubt had been clarified by the Sacred Congregation. First, the word "benedictiones" as used in Canon 1149 is to be interpreted to include public sacramentals. Second, catechumens, the only non-Catholics mentioned in the question proposed to the Sacred Congregation, are permitted to receive *publicly* blessed candles, ashes, and palms. The decision refers to catechumens, and not to non-Catholics in general. Nor may one infer: What is permitted to catechumens is permitted to non-Catholics also.<sup>25</sup> Canon 1149 allows the inference from Catholics to catechumens, but not from catechumens to non-Catholics.

<sup>17</sup> *Moral Theology*, I, n. 958 and n. 959.

<sup>18</sup> *Theologia Moralis*, n. 154.

<sup>19</sup> *De Sacramentis*, III, n. 736.

<sup>20</sup> *A Commentary on Canon Law*, IV, p. 567.

<sup>21</sup> *Administrative Legislation in the New Code of Canon Law*, n. 105.

<sup>22</sup> *The Sacramentals According to the New Code of Canon Law*, pp. 71 ff.

<sup>23</sup> *Moral and Pastoral Theology*, I, p. 290.

<sup>24</sup> S. C. Rituum, 28 mar. 1919—AAS, XI (1919) 144. The above translation is taken from Bouscaren, *Canon Law Digest*, I, p. 557.

<sup>25</sup> Cf. Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 467; Noldin-Schmitt, *Summa Theologiae Moralis*, III, n. 47.

What is to be done when non-Catholics accompany the faithful to the altar rail to receive these sacramentals? Must the priest refuse them? To do so would publicly humiliate them and would most likely do more harm than good. Hence, he may confer them, but, if he does so, it is rather by *epikeia* to avoid grave and unfortunate consequences which otherwise might ensue.

To refuse them would be a great source of scandal to the faithful as well as to non-Catholics. The faithful are neither accustomed to witnessing such drastic measures at sacred functions, nor are they sufficiently aware of the reasons why non-Catholics should be refused. As for non-Catholics, those who approach the altar rail to receive these sacramentals, do so devoutly and in good faith, with the hope of obtaining spiritual help from God.

By prudently employing the principle of *epikeia*, a priest may rightfully justify such tolerant action in a particular instance. The procedure is rather an exception to the specific law, which forbids the *public* administration of the sacramentals to non-Catholics. At the moment of administering them in a particular case, he may have felt secure in his choice of action because of the difficulties involved. But he must not make a habit of using the principle of *epikeia* in such cases. He is bound in the future to take the necessary precautions that the same predicament will not recur. Where such abuses exist, the pastor or chaplain is obliged to instruct properly the faithful, and the non-Catholics concerned, in the laws of the Church regarding the sacramentals.

Above all, the faithful should be told not to encourage their non-Catholic friends to receive them publicly. When only a few are concerned, the pastor can inform them personally, or by having the instructions passed on through their Catholic friends. If the number is large, he would be obliged to inform the congregation publicly of the unlawfulness of such a practice. In this instruction, he should point out what the Church distinctly forbids, namely, their *public* participation. There is nothing against their receiving the sacramentals *privately*.<sup>26</sup>

<sup>26</sup> Herbert G. Kramer, "The Administration of the Sacramentals to Non-Catholics"—*AER*, LXXXV (1931), 46.

## B. Blessings

The *Roman Ritual* is a great treasure of ecclesiastical blessings. It contains many blessings which may be very beneficial for non-Catholics, provided they are administered privately and are received with the proper dispositions. Some of these blessings may be conferred either upon their person, as the blessings of the sick, the blessing of children, the blessing of women after childbirth, etc., or upon their possessions, as the blessing of their homes, fields, food, automobiles, etc.<sup>27</sup>

## 1. Blessing of the Sick

In permitting blessings to be bestowed upon non-Catholics, Canon 1149 seems to have in mind especially the blessing of the sick. Besides the *lumen fidei* which must be primarily intended in this blessing, one may also hope for *corporis sanitatem*. The Church prays first for grace to descend upon their souls, and then for salutary benefits upon their bodies. She begs for these latter benefits with the conditional intention that they quicken their steps toward accepting the true faith. As beneficiaries of these blessings, non-Catholics must be reminded not to expect infallible or miraculous cures.

There exists a decree of the Holy Office in the pre-Code legislation of the Church, which permitted priests to visit the homes of Turkish families, and there to pray over and bless the sick *pro sanitate corporis et illuminatione mentis*.<sup>28</sup> Since this blessing belongs to the invocative group, several authors,<sup>29</sup> in virtue of Canon 1149, permit it to be conferred privately upon non-Catholics.

## 2. Blessing of Children

The *Roman Ritual* contains three blessings for children. Among the sacramentals which may be granted to non-Catholics, Ramstein

<sup>27</sup> Cf. *Rituale Romanum*, "Benedictiones non reservatae," in the Appendix.

<sup>28</sup> Instr. S. C. S. Off., 11 dec. 1749—*Coll. S. C. P. F.*, n. 374.

<sup>29</sup> Merkelbach, *Summa Theologiae Moralis*, I, n. 753, nota 1; Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 467; Abbo-Hannan, *The Sacred Canons*, II, p. 421, note 45.

mentions the blessing of children.<sup>30</sup> The Church has no intention of excluding baptized children below the age of reason from this blessing. They are members of the Church because they have not professed heresy, being incapable of a moral act. For reasons of scandal, this blessing could, at times, be forbidden. Certainly a non-Catholic child who attends our parochial school would deserve this blessing, especially if he is sick. The *Ritual* provides a *Benedictio puerorum aegrotantium*.

### 3. *Blessing of the Homes*

An early decree of the Sacred Congregation for the Propagation of the Faith, for a grave reason, and only when summoned, permitted a priest to bless the home of schismatics, provided at the same time he avoided all *communicatio in oratione*.<sup>31</sup> Davis<sup>32</sup> requires a grave reason, while Vermeersch-Creusen,<sup>33</sup> Augustine,<sup>34</sup> Paschang,<sup>35</sup> and McHugh-Callan<sup>36</sup> simply allow this blessing as one of the favors which may be granted to non-Catholics according to the general permission of Canon 1149.

### 4. *Blessing of Women after Childbirth*

As a rule, only a Catholic woman who has given birth to a child in legitimate wedlock and has not had her child baptized outside the Church is entitled to the *Benedictio mulieris post partum*.<sup>37</sup> It should be imparted according to the form prescribed by the *Roman Ritual*.<sup>38</sup>

In a country where mixed marriages are numerous, the priest is more likely to be asked for this blessing by a non-Catholic mother.

<sup>30</sup> Ramstein, Matthew, *A Manual of Canon Law* (Hoboken, N. J.: Terminal Printing and Publishing Co., 1948), p. 514.

<sup>31</sup> S. C. de Prop. Fide, 17 aprilis 1758—*Coll. S. C. P. F.*, n. 411.

<sup>32</sup> *Moral and Pastoral Theology*, I, p. 289.

<sup>33</sup> *Epitome Iuris Canonici*, II, n. 467.

<sup>34</sup> *A Commentary on Canon Law*, IV, p. 567.

<sup>35</sup> *The Sacramentals According to the New Code of Canon Law*, p. 73.

<sup>36</sup> *Moral Theology*, I, n. 958.

<sup>37</sup> Prümmer, *Manuale Theologiae Moralís*, II, n. 149.

<sup>38</sup> *Rituale Romanum*, Tit. 7, c. 3.

This may happen, especially if she accompanies the baptismal party to the church. Supposing then that two of the conditions are fulfilled, namely, the child is born of valid wedlock and is being baptized in the Catholic Church, may this blessing be given to a non-Catholic mother?

Only a few moralists treat of the question. In the pre-Code period, Lacroix denied heretical women this favor on the principle then generally and universally followed: Excommunicated persons have no rights to the spiritual benefits of the Church.<sup>39</sup> Recent theologians, as Prümmer and Davis, explicitly mention this blessing as one of the sacramentals which may be granted to non-Catholics. At first sight, Prümmer seems to be in keeping with the old school, for he says: "haec benedictio neganda est matri acatholicae." But he does not make the prohibition exclusive; he leaves some leeway, "saltem si inde scandalum fidelium timetur."<sup>40</sup> Davis takes a more positive stand. Speaking in the plural, he writes: "We believe a non-Catholic mother can be given the blessing after childbirth." But he adds: "Superstition and scandal must, in all cases, be avoided."<sup>41</sup> Augustine, however, seems to deny them this blessing.<sup>42</sup>

Two periodicals carried solutions in favor of granting this blessing to a non-Catholic mother. Already in 1892 a writer in *The American Ecclesiastical Review* saw no valid reason, apart from those of scandal and superstition, why a priest could not impart this blessing upon a non-Catholic mother, who evinces a sincere desire for it.<sup>43</sup> In *The Clergy Review*, Canon Mahoney goes to great length to show that the more lenient view is in accordance with the present legislation as laid down in Canon 1149.<sup>44</sup>

It follows that the *Benedictio mulieris post partum* may be given to a non-Catholic mother, provided there is no danger of scandalizing the weak, and all superstitious notions are explained away. Since this blessing is ordinarily administered when only a few are in

<sup>39</sup> *Theologia Moralis*, Lib. VI, n. 995.

<sup>40</sup> *Manuale Theologiae Moralis*, I, n. 524.

<sup>41</sup> *Moral and Pastoral Theology*, I, p. 290 footnote.

<sup>42</sup> *A Commentary on Canon Law*, VIII, p. 181.

<sup>43</sup> *The American Ecclesiastical Review*, VII (1892), 157 f.

<sup>44</sup> E. J. Mahoney, "Churching a Non-Catholic"—*The Clergy Review*, IV (1932), 338 ff.

church, these few can easily be instructed that the blessing is being given with the hope of obtaining, among other reasons, the light of faith for the non-Catholic. However, prudence and discretion should be the guide as to whether it is more expedient to grant or to refuse the blessing. Sometimes a priest may have good reason to refuse the blessing, as when he is convinced that a refusal would hasten conversion. On the other hand, a refusal may do more harm than good; it may forever embitter one who was once well disposed.

### 5. *Blessing of St. Blaise*

In certain localities it is customary to impart the blessing of St. Blaise on the day following the Feast of the Purification. As a sacramental, this blessing does not enjoy the liturgical importance which the sacramentals mentioned in the above decree<sup>45</sup> possess. It is not so intimately connected with the liturgy of the Mass as the blessing of candles, ashes, and palms. However, as blessed candles, ashes, and palms, so also the blessing of St. Blaise is regularly administered every year on a set date as part of the regular services of the day and is received by many.

Even though the blessing of St. Blaise has not the liturgical circumstances *in sacris functionibus*, it may not be imparted to non-Catholics publicly. Noldin-Schmitt<sup>46</sup> and Merkelbach<sup>47</sup> exclude non-Catholics from any sacramental *quae singulis publice in ecclesia administrantur*. They may not be the recipients of those sacramentals which are administered publicly and separately upon each individual. They are not barred from such blessings as the Asperges, which is also administered publicly, but upon the congregation as a whole. However, exceptions by *epikeia* will be allowed as above.

### 6. *Blessings for Wedding Anniversaries*

The new *Collectio Rituum* for the Dioceses of the United States contains a *Benedictio in Nuptiis Jubilaeis*.<sup>48</sup> Only *conjuges catholici* are mentioned in the rubrics of this blessing, implying without doubt

<sup>45</sup> Cf. *supra*, p. 127.

<sup>46</sup> *Summa Theologiae Moralis*, II, n. 37.

<sup>47</sup> *Summa Theologiae Moralis*, I, n. 753.

<sup>48</sup> *Collectio Rituum*, Appendix, pp. 238 ff.

that spouses of mixed marriages are to be excluded. This blessing may not be conferred upon a non-Catholic because it is forbidden to confer blessings on such in public. Furthermore, if the Church refuses to grace a mixed marriage in the beginning with a nuptial blessing, there is no reason to suppose she permits a blessing on its anniversary. However, a priest could give them a simple blessing, for example, in their home.

### C. Exorcisms

Exorcisms may be performed over non-Catholics. Canon 1152 explicitly grants them this favor: Exorcisms may be performed by the lawful minister not only over the faithful and catechumens, but also over non-Catholics or excommunicated persons.<sup>49</sup> In order to exercise the solemn form of exorcism over a non-Catholic, the permission of the Ordinary is necessary. Canon 1151 restricts the use of solemn exorcism, as it is found in Tit. XI, c. 2 of the *Roman Ritual*, under the form entitled: "Ritus exorcizandi obsessos a daemonio."

To confer the simple form of exorcism, Abbo-Hannan mention that the general permission of the Ordinary suffices, and for a justifying reason it can be presumed.<sup>50</sup> This simple form is given in the *Roman Ritual*, Tit. XI, c. 3, under the heading: "Exorcismus in Satanam et Angelicos Apostaticos." Distinct from this form are the other simpler forms which occur in Baptism and in certain consecrations and blessings. Ministers of the exorcisms employed in Baptism, consecrations and blessings are the same persons who administer these rites.<sup>51</sup> A priest would most likely bestow the simple forms especially over non-Catholics who are in good faith and have leanings toward the Catholic faith, but are vehemently tormented by the devil. He would do well if he said the following short prayer of exorcism over them: "In nomine Jesu praecipio tibi, immunde spiritus, ut recedas ab hac creatura."<sup>52</sup>

<sup>49</sup> Canons 1152: Exorcismi a legitimis ministris fieri possunt non solum in fideles et catechumenos, sed etiam in acatholicos vel excommunicatos.

<sup>50</sup> *The Sacred Canons*, II, p. 424.

<sup>51</sup> Augustine, *A Commentary on Canon Law*, IV, p. 570.

<sup>52</sup> Coronata, *De Sacramentis*, III, n. 745.

## ARTICLE II — THE USE OF SACRAMENTALS

There are instructions of the Sacred Congregations which allow blessed objects to be given to non-Catholics, provided they are not used as articles of superstition. When visiting the homes of infidels and praying over the sick, one of the instructions of the Holy Office permitted the priest to leave *prayer cards* with the family, as long as there was certainty that they would use them with reverence.<sup>53</sup>

Frequently enumerated among the sacramentals which may be given to non-Catholics are the common blessed objects, as medals, holy water, and candles. Prümmer<sup>54</sup> notes that except where there is danger of profanation, holy water, blessed medals, etc., may be given to Protestants. Iorio allows the same to non-Catholics, provided they are given privately.<sup>55</sup>

Abbo-Hannan,<sup>56</sup> basing the prohibition on an early decree of the Sacred Congregation for the Propagation of the Faith,<sup>57</sup> believe blessed candles may not be given to heretics, even *outside* the sacred functions. But we see no reason why an exception should be made for blessed candles.

Certain sacred objects must be expected. A decision of the Holy Office forbade priests to leave relics or objects consecrated with *chrism*, with infidels.<sup>58</sup> Augustine, referring to this prohibition, holds that it is still in effect: "Relics and objects touched with holy oils must not be left with unbelievers."<sup>59</sup> However, this prohibition needs some distinction.

The Code itself fears that objects, blessed and touched with holy oil (consecrated) and destined for divine worship, stand in great danger of being used for profane and foreign purposes if they fall into the hands of lay Catholics;<sup>60</sup> hence, there is greater danger if they fall into the hands of non-Catholics. It expresses the same

<sup>53</sup> Instr. S. C. S. Off., 11 dec. 1749—*Coll. S. C. P. F.*, n. 374.

<sup>54</sup> *Manuale Theologiae Moralis*, III, n. 500.

<sup>55</sup> *Theologia Moralis*, I, n. 239.

<sup>56</sup> *The Sacred Canons*, II, p. 421, note 45.

<sup>57</sup> S. C. de Prop. Fide, ian. 1761—*Coll. S. C. P. F.*, n. 438.

<sup>58</sup> S. C. S. Off., 11 aug. 1768—*Coll. S. C. P. F.*, n. 468.

<sup>59</sup> *A Commentary on Canon Law*, IV, p. 567.

<sup>60</sup> Cf. Canon 1150.

anxiety with regard to relics. Canon 1289 warns clerics to prevent the transfer of notable relics, especially those of the holy cross, into the hands of non-Catholics on the occasion of the settlement of estates. Vermeersch-Creusen no doubt have such sacred objects in mind when they say certain sacramentals *natura rei* are to be denied non-Catholics.<sup>61</sup>

It seems that relics of lesser importance are not included in the above prohibition. Iorio permits giving such to non-Catholics, provided there is no danger of profanation.<sup>62</sup>

As there is great danger of the sacramentals being used as objects of superstition, the priest should explain the nature and use of the various sacramentals. If the Second Council of Baltimore thought such an instruction necessary for Catholics, how much more is it necessary for non-Catholics.<sup>63</sup> The veneration given to the sacramentals should have no taint of superstition. Sacramentals are not charms; they do not produce their effects in a magic or superstitious manner. The good which comes from them depends principally upon the suffrages which the Church offers to God. The rightful use of them brings spiritual as well as temporal benefits to those who are well disposed.

Vermeersch-Creusen remind us to instruct non-Catholics not to expect infallible results against lightning or sickness.<sup>64</sup> Augustine warns: "Any superstition based on the number of words employed or the kind of paper on which they are written, or some special hour must be discountenanced."<sup>65</sup>

### ARTICLE III — FUNERALS

#### A. *Non-Catholics and Christian Burial*

Ecclesiastical burial consists in the transfer of the remains to the church, the celebration of the funeral services over them at the church, and their interment in a place legitimately designated for the

<sup>61</sup> *Epitome Iuris Canonici*, II, n. 467.

<sup>62</sup> *Theologia Moralis*, II.

<sup>63</sup> Cf. N. 350—*Decreta Concilii Plenarii Baltimorensis Secundi* A. D., 1864.

<sup>64</sup> *Loc. cit.*

<sup>65</sup> *A Commentary on Canon Law*, IV, p. 567.

burial of the faithful.<sup>66</sup> Whenever Christian burial is forbidden, it is understood all three are forbidden, namely, the transfer of the remains to the church, the funeral services in the same, and burial in a place legitimately destined for the faithful departed.<sup>67</sup>

The Code of Canon Law denies ecclesiastical burial to all who were not baptized,<sup>68</sup> or were openly and evidently members of a non-Catholic sect.<sup>69</sup> Catechumens who through no fault of their own die without baptism are to be considered in this connection as baptized.<sup>70</sup> Infants who die without baptism are not entitled to the full rites of ecclesiastical burial; but they may be buried in the un-blessed portion of a cemetery. If an unbaptized infant dies with his Catholic mother, it is probable that he may be buried with his mother.<sup>71</sup> As for non-Catholics, only final repentance and reconciliation with the Church can save them from being deprived of this ecclesiastical privilege.

The principle to refuse non-Catholics ecclesiastical burial is connected with the idea and discipline of the visible Church. Ecclesiastical burial is a final and lasting sign of communion with her. But as Mausbach reminds us: "Exclusion from such burial is a disciplinary measure that is by no means an expression of opinion regarding the ultimate destiny of the departed."<sup>72</sup> Non-Catholics, even though baptized and in good faith, are deprived of Christian burial, not because of any subjective crime on their part, but simply because of the absence of a strict right to it.<sup>73</sup> The Church strictly adheres to this rule and will not permit priests to bury non-Catholics from the church.

In a country where mixed marriages are numerous, a priest is very likely to be asked by the Catholic spouse or children to hold burial services for the non-Catholic party. In view of the canonical prohibi-

<sup>66</sup> Canon 1204.

<sup>67</sup> Fanfani, *Manuale Theologiae Moralis*, I, n. 383.

<sup>68</sup> Canon 1239, §1.

<sup>69</sup> Canon 1240, §1.

<sup>70</sup> Canon 1239, §2.

<sup>71</sup> Bouscaren, Lincoln T., and Ellis, Adam C., *Canon Law, A Text and Commentary* (2. ed., Milwaukee: Bruce, 1951), p. 682.

<sup>72</sup> *Catholic Moral Teaching and Its Antagonists*, p. 42.

<sup>73</sup> Bouscaren-Ellis, *Canon Law, A Text and Commentary*, p. 684.

tion above and two decisions of the Holy Office, a priest would ordinarily have to refuse such a request.

When on May 8, 1889, the Holy Office was asked whether a priest could assist at the funeral of a non-Catholic relative or friend, the Sacred Congregation replied: "He may do so, but is not allowed to wear the insignia, i.e., surplice and stole, and must take no active part in the ceremonies of the non-Catholic rite."<sup>74</sup> In this case the Holy Office presupposed that non-Catholic services were to be conducted at the funeral, and it warned the priest not to take part in them. Joint services with non-Catholics is always forbidden.

Fanfani cites a decree of the Holy Office which forbade the priest to accompany, *tamquam minister cultus*, the body of a heretic from the home to the cemetery in a locality where there is no minister of the deceased person's sect, notwithstanding the fact that the body is not brought to the church.<sup>75</sup>

Does an exceptional case warrant a dispensation from this general rule? Kerin<sup>76</sup> and Bouscaren-Ellis<sup>77</sup> think so. To support his position, Bouscaren-Ellis cite Father Kerin, who holds that the Bishop could grant Christian burial to a baptized non-Catholic "who is publicly known, or can be publicly known by the announcement of his wish, to have desired, in so far as he was able under the circumstances, to be united to the Church of Christ." The bishop is to decide whether one or the other case merits this concession. Bouscaren-Ellis agree with Kerin that the permission ought to be given "to prevent a non-Catholic minister from claiming the funeral to the sorrow and scandal of the Catholic family; to prevent an entirely irreligious funeral; to avoid scandal among the faithful, who cannot understand the legal provisions by which the worst sinners may receive Christian burial by last-minute repentance, while good men who have been friendly to the Church . . . are denied it."

Not long ago the Apostolic Visitator for the Ukrainians in Ger-

<sup>74</sup> *Coll. S. C. P. F.*, n. 1705.

<sup>75</sup> S. C. S. Off., 26 ian. 1886. This decree is not published, but is cited by Fanfani, *Manuale Theologiae Moralis*, II, n. 43.

<sup>76</sup> Kerin, Charles, *The Privation of Christian Burial*, The Catholic University of Canon Law Studies, n. 136 (Washington, D. C.: The Catholic University of America Press, 1941), pp. 239 ff.

<sup>77</sup> *Canon Law, A Text and Commentary*, p. 685.

many put this question before the Holy Office: "It goes against the inclinations of a Catholic priest to leave an Orthodox brother in Christ without any ecclesiastical burial. On the other hand, to turn a deceased Orthodox person over to a Protestant minister for ecclesiastical funeral services is contrary to Catholic sentiment. What should be done in such cases?" After having thoroughly considered this and other questions, the Supreme Sacred Congregation, in a plenary session of October 29, 1941, gave this answer: "The *Roman Ritual*, Tit. VI, c. 2, concerning those who are to be refused burial, is to be observed (c. 1240). But the priest may, without any sacred vestments or sacred rites, recite prayers privately, at the house where the body is laid out, accompany the funeral for sake of civil courtesy, and also recite prayers privately at the grave in the cemetery, avoiding all occasion of scandal."<sup>78</sup> In view of this decree, Iorio would extend this privilege to others besides the schismatics.<sup>79</sup>

Commenting in *The Clergy Review* on this reply of the Holy Office, Canon Mahoney writes: "The important thing is to prevent scandal being given when performing this office of charity; therefore publicity must be avoided which is easy enough in the house where the body is lying, but less so at the graveside. We think the direction of the Holy Office is not disobeyed by reciting suitable prayers aloud at the graveside, otherwise there is no point in the priest's attendance. 'Privately' in this text must be given the meaning 'without previous public announcement,' as in the law about saying Mass 'privately' for the deceased heretic."<sup>80</sup>

The complete and normal funeral services, which in Catholic rites includes the *missa exsequialis*, may under no circumstances be given to non-Catholics. Likewise, the formal and solemn Catholic burial services, with its prayers and rites, as the saying and chanting of liturgical prayers, the use of holy water, incense, cross-bearer, etc., would have to be omitted. In its limitations, the pattern for these ceremonies should follow that permitted for mixed marriages. It is

<sup>78</sup> S. C. S. Off., ep. (privat.) ad Visit. Apost, pro Ucrainis, 15 nov. 1941. (This reply is a private one. Bouscaren records it in his *Canon Law Digest*, III, pp. 299-300.)

<sup>79</sup> *Theologia Moralís*, I, n. 239.

<sup>80</sup> E. J. Mahoney, "Dissident-Orthodox Funeral"—*The Clergy Review*, XXXVII (1952), 431-432.

up to the local Ordinary to decide upon each particular case, and to determine how much can be done.

An occasion for such limited burial services would arise if a Catholic chaplain in the Armed Forces were asked to officiate at the burial of a non-Catholic service-man, when no other chaplain is available. Scandal is not likely to ensue in these circumstances because the bystanders understand that the chaplain is expected to perform this service in an emergency. Likewise, indifferentism, which ordinarily undermines the distinction between Catholicism and other religions, can be avoided if the chaplain conducts a simple, unofficial, non-liturgical burial service, which is neither Catholic nor non-Catholic. Let him merely recite the Lord's prayer, read some appropriate passages from Holy Scripture, and say a prayer to God to console and strengthen the relatives of the deceased. In similar circumstances these principles would hold true for the burial ceremony of a Catholic service-man, when no Catholic priest can be had. The non-Catholic chaplain would have to recite prayers which are in accordance with Catholic teaching. The condition would be safeguarded by providing him with some of the prayers given in the vernacular in the Ritual.<sup>81</sup> However, it is forbidden to have him officiate at the burial services as a Catholic priest by having him follow out the rubrics, i.e., the recitation of the prayers, the use of holy water and incense, etc., as they are prescribed by the Ritual.

A questioner in *The American Ecclesiastical Review* asks, since the celebration of mixed marriages under certain circumstances is permitted in the church, why may not the funeral of a non-Catholic married to a Catholic under similar circumstances be conducted in the church. To make such an analogy, Father Connell rightly points out, runs contrariwise to canonical legislation. The Code provides legislation whereby the Ordinary may, if he judges it necessary to avoid greater evil, allow the celebration of mixed marriages in the church, but no similar provision is given for the funeral of non-Catholics. On the contrary, two canons explicitly forbid ecclesiastical burial, one to the unbaptized and the other to those who were members of a non-Catholic sect.<sup>82</sup>

<sup>81</sup> Cf. Francis J. Connell, "Communication With Non-Catholics In Sacred Rites"—*AER*, CXI (1944), 186.

<sup>82</sup> "Non-Catholic Funerals In Church"—*AER*, CXXIX (1953), 354.

B. *Burial of Non-Catholics in a Catholic Cemetery*

It happens that Catholics for reasons of sentiment seek to have their non-Catholic relatives buried in their family plot in a Catholic cemetery. Because Catholic cemeteries are blessed, this request presents a problem. Mausbach clearly tells us why:

If the Church were to allow Protestants the right of burial in Catholic Graveyards, she would be treating them better than her own children, to whom she does not grant the privilege indiscriminately, but after examining their way of life. According to the old liturgical idea a graveyard is added to the church so as to form part of the consecrated place. Catholics set a higher value upon consecrations and blessings than Protestants . . . she (the Church) tries to limit the use of places and things which partake even *remotely* in the consecration of the altar and sacrament.<sup>83</sup>

Two decisions were issued by the Holy Office on the matter. In the first, the query was put forth: "Whether in view of a bond of consanguinity or of marriage, non-Catholics may licitly be buried in the family vault (*sepulchro gentilitio*) of Catholic families." The Sacred Congregation answered: "The Bishops should make every effort to see that everything is done according to the sacred canons, but in cases where this cannot be done without scandal and danger, it may be tolerated."<sup>84</sup>

The second decision was not an answer to another inquiry, it was rather an interpretation of the first. Because the Second Plenary Council of Baltimore<sup>85</sup> had given a too liberal interpretation to the decision above, the Holy Office appended a footnote to it on January 4, 1888.<sup>86</sup> It declared tolerance was to be understood in this case as mere *passiva ad toleranda mala*. This concession was intended solely as an exception, whereby in particular cases a lesser of two evils could be chosen to avoid greater harm.

<sup>83</sup> *Catholic Moral Teaching and Its Antagonists*, p. 42.

<sup>84</sup> S. C. S. Off., 30 mar. 1859—*Coll. S. C. P. F.*, n. 1173.

<sup>85</sup> N. 389—*Decreta Concilii Plenarii Baltimorensis Secundi*, A. D., 1864.

<sup>86</sup> Cf. footnote appended to the decree of March 30, 1859 of the Holy Office in *Collectanea Congregationis de Propaganda Fide*, I, p. 641.

Authors and writers are at variance as to whether *sepulchra gentilitia* include the ordinary family plot. Sabetti-Barrett,<sup>87</sup> Beste<sup>88</sup> and Murphy<sup>89</sup> limit its meaning to a family vault. Bouscaren-Ellis,<sup>90</sup> Kerin<sup>91</sup> and Donnelly<sup>92</sup> extend its meaning to the family burial plot. Writing in *The American Ecclesiastical Review*, Donnelly notes:

Evidently the extent of its *toleratio* is not evident on the material character of the place of burial. If interment in a family vault, outside a public cemetery, can be tolerated *ad majora mala evitanda*, why should it be forbidden in an ordinary grave? The reason why the burial of a non-Catholic in a Catholic cemetery is ordinarily not allowed is because of the sacredness of the place. Certainly a family plot is no more sacred than a mausoleum.

Bouscaren-Ellis conclude there is sufficient reason and authority to allow a non-Catholic, even though he is unbaptized, to be interred in a blessed Catholic family vault or plot. But this concession is not to be taken as a positively approved privilege. The Bishop is to decide in each particular case when it may be passively tolerated to avoid greater evil.<sup>93</sup>

To more easily avoid this difficulty, some communities do not consecrate a portion of the cemetery. They set aside plots in which if a Catholic is buried, the grave is blessed at the time of the burial. If a non-Catholic is interred, his portion of the plot is left unblessed.

### C. Attendance of Non-Catholics at Catholic Funerals

An Instruction of the Holy Office permits non-Catholics to attend Catholic funerals, but denies them any part in the Catholic

<sup>87</sup> *Theologia Moralis*, n. 973.

<sup>88</sup> *Introductio In Codicem*, p. 603.

<sup>89</sup> James H. Murphy, "Parish Priests and Christian Burial"—*AER*, LXVII (1922), 19-20.

<sup>90</sup> *Canon Law, A Text and Commentary*, p. 686.

<sup>91</sup> *The Privation of Christian Burial*, p. 240.

<sup>92</sup> Francis B. Donnelly, "Certain Problems of Ecclesiastical Burial"—*AER*, CIII (1940), 1-5.

<sup>93</sup> *Loc. cit.*

prayers and rites.<sup>94</sup> For reasons of friendship or to pay due respect to some personage, non-Catholics are found at Catholic funerals more than at any other Catholic service. They may even join in the recitation of the Our Father or the Hail Mary, said for the deceased on such occasions. They are not excluded from these prayers. The Holy Office rather excludes them from the liturgical prayers, and from these they ordinarily refrain.

A fancy, rare but not improbable, may strike the non-Catholic spouse of a mixed marriage to have a minister share in the funeral services or conduct a separate non-Catholic service. It is understood no priest may perform joint services with any non-Catholic minister. Furthermore, a priest must threaten to refuse Christian burial in those cases in which he surmises a non-Catholic service will be held either before or after the Catholic services.

#### D. *Non-Catholic Pallbearers*

It is questionable whether the office of pallbearer belongs to active participation in the funeral service. Father Ignatius Szal<sup>95</sup> thinks it does, because *translatio cadaveris*<sup>96</sup> is an essential part of the funeral service. Nevertheless, he permits it for our country, where to fulfill this function is considered merely a civil duty and scandal is seldom caused. We may add this office is so remote that a non-Catholic may for good reasons be permitted to act as pallbearer at a Catholic funeral. It would seem mere friendship is not a sufficient reason. Lack of Catholic pallbearers would be considered a valid reason, provided scandal is obviated.

<sup>94</sup> S. C. S. Off., 22 iunii 1859—*Coll. S. C. P. F.*, n. 1176.

<sup>95</sup> Szal, Ignatius J., *The Communication of Catholics with Schismatics*, The Catholic University Canon Law Studies, n. 264 (Washington, D. C.: The Catholic University of America Press, 1948), pp. 174-175.

<sup>96</sup> Cf. Canon 1240.

## CHAPTER SIX

### PRAYERS, INDULGENCES AND MISCELLANEOUS QUESTIONS

#### ARTICLE I — PRAYERS

##### A. *Prayers for Non-Catholics*

To be distinguished from the public prayers of the Church are the private prayers which the priest or the people offer in their own name. Such private prayers do not belong to public worship, and hence, are not the concern of *communicatio in sacris*. Nothing forbids giving non-Catholics a *memento* in our private devotions.

With regard to the public prayers of the Church it is not forbidden to offer them for non-Catholics *privately*, i.e., secretly, without mentioning for whom the prayers are being said. Thus a priest may include the welfare of a particular non-Catholic in his intentions while offering prayers with the congregation. Likewise, any member of the laity may do the same in the prayers which the congregation offers with the priest.<sup>1</sup>

Nor does the Church forbid her public prayers to be offered for non-Catholics *in general*. On the contrary, in every Mass celebrated, the Church publicly prays for them during the Offertory at the offering of the chalice. In her sacred liturgy on Good Friday among the nine double orations said between the singing of the *Passion* and the *Ecce Lignum Crucis*, one is offered for heretics and schismatics, one for the Jews, and another for pagans.<sup>2</sup> Non-Catholics are in great need of our prayers, and charity urges us to pray for them. The Church does not pray to make heretics better heretics, schis-

<sup>1</sup> Cf. Prümmer, *Manuale Theologiae Moralis*, II, n. 341; Merkelbach, *Summa Theologiae Moralis*, I, n. 753, nota 1; Fanfani, *Manuale Theologiae Moralis*, III, n. 26.

<sup>2</sup> *Ordo Hebdomadae Sanctae Instauratus*, Feria VI in Passione et Morte Domini.

matics better schismatics, etc., rather she prays that through repentance they may return to the true fold.

It is forbidden to pray publicly for a *particular* non-Catholic during the public prayers of the Church. This has been the constant teaching of the Church. Non-Catholics are deprived of this privilege because they are not members of the Church. To some it may appear that the Church has made exceptions to this general rule for certain individual non-Catholics. But it is not so. When the Holy Office permitted prayers to be offered publicly for a non-Catholic king or governor, it had in mind above all the welfare of the state.<sup>3</sup> The purpose of these prayers was not so much the public officials, as it was the peace and prosperity of the nation.

Perhaps some may be inclined to justify the recitation of the Our Father, etc., for individual non-Catholics by the congregation gathered in the Church, on the score that this is not a liturgical act of prayer, but is rather the private prayer of many. But this would run contrariwise to the spirit of the Church's legislation, which does not want to give any public recognition or honor—whether liturgical or non-liturgical acts—to those who are not in communion with her. If a pastor deems a sick or deceased non-Catholic deserves our prayers, it would seem best for him to request the members of the congregation to pray privately for such a one.<sup>4</sup>

The practice has become widespread to recite the Rosary for deceased Catholics at the wake. The faithful, according to Berutti, may gather together to recite the Rosary for a deceased person who has been denied ecclesiastical burial, because the Rosary is an extra-liturgical prayer.<sup>5</sup> But the Holy Name Society or the Ladies Sodality ought not to congregate and publicly recite prayers for a deceased non-Catholic, even though the prayers are led by a lay person. We must not forget that these societies have been erected and entered into for the spiritual benefit of the members. To deviate from ex-

<sup>3</sup> S. C. S. Off., 23 feb. 1820—*Coll. S. C. P. F.*, n. 739; S. C. S. Off., 24 iulii 1850—*Coll. S. C. P. F.*, n. 1046.

<sup>4</sup> Cf. Francis J. Connell, "Suffrages for a Deceased Non-Catholic"—*AER*, CXIII (1945), 221.

<sup>5</sup> Berutti, Christophorus, *Institutiones Iuris Canonici* (Taurini: Marietti, 1940), IV, n. 57.

clusiveness in this regard is to defeat the very purpose of their organization.

A priest may be approached to recite the Rosary for a deceased non-Catholic at the wake. This request may likely come from one of the members of a Catholic family to which the deceased non-Catholic belonged. There is no doubt a priest, as a private individual, may pray alone for a non-Catholic. But Father Lydon<sup>6</sup> and Father Connell<sup>7</sup> forbid a priest to lead a group of mourners in the recitation of the Rosary for a deceased non-Catholic. Even though the Rosary is an extra-liturgical prayer, Father Connell reasons:

But, in practice, this argument does not seem sufficient . . . for those who would be present on such an occasion would not be familiar with fine liturgical distinctions, and to them the recitation of the Rosary in common by a group of mourners under the leadership of the priest would appear to be public Catholic services for the soul of the deceased. Accordingly, although a priest might regard such an act as a very commendable deed of charity for the soul of the departed person he should refrain from performing it because it would be, at least to all appearances, a forbidden act of *communicatio in sacris*.

#### B. Prayers with Non-Catholics

To the question whether such Catholic prayers as the Our Father and the Hail Mary may be recited with non-Catholics privately, Fanfani answers in the affirmative, if the danger of perversion and scandal are excluded. To do this privately, he continues, is not properly *communicatio in sacris*. Rather than we communicate with them, they communicate with us in a matter which is good.<sup>8</sup> According to Merkelbach, Catholics may privately pray with non-Catholics, provided the prayers are good and scandal is obviated.<sup>9</sup> Noldin-Schmitt's approach is slightly different. They allow reciting the Lord's Prayer and other prayers with them, as long as such action does not involve the profession of a false faith.<sup>10</sup> In other

<sup>6</sup> *The Priest*, Vol. II, n. 5 (May, 1946), 38.

<sup>7</sup> *The American Ecclesiastical Review*, CXIV (1946), 381.

<sup>8</sup> *Manuale Theologiae Moralis*, II, n. 38.

<sup>9</sup> *Summa Theologiae Moralis*, I, n. 753, nota 1.

<sup>10</sup> *Summa Theologiae Moralis*, II, n. 38.

words, these prayers must be either Catholic prayers, or prayers in agreement with Catholic teaching.

In a mixed marriage the Catholic spouse should encourage her non-Catholic partner to join in such family prayers as the Rosary, night prayers, etc. It is praiseworthy of a Catholic, shipwrecked and lost at sea, to invite his non-Catholic comrades to join him in prayers. A Catholic layman as well as a Catholic priest performs a noble deed if he helps a dying non-Catholic to elicit acts of faith, hope, love and contrition.

As representatives of their sects, non-Catholics are forbidden to join in our public prayers. A recent Instruction of the Holy Office warned: Every species of communication in sacred rites is forbidden at all conventions and assemblies . . .<sup>11</sup> Writing in *The Irish Ecclesiastical Record*, Fr. Conway believes this warning was sounded because of abuses which occurred at certain "re-union" meetings in Europe.<sup>12</sup> Not only had Catholics taken part in non-Catholic worship, but they had permitted non-Catholics to share in our services. It is evident that the Church is chiefly concerned that Catholics do not participate in religious services sponsored by non-Catholic groups. But there is another danger against which she warns. Our public Catholic worship may not be offered as a common form of worship in which non-Catholics may participate.

The same Instruction of the Holy Office clearly pointed out: It is not discountenanced to open and close the meetings with the common recitation of the Lord's Prayer or some other prayer approved by the Catholic Church. Notice that these prayers must not contain any statement expressly or implicitly contrary to Catholic moral and doctrinal teaching.

It is not uncommon, especially in large cities, to find non-Catholics frequenting our public non-liturgical devotions as Benediction, the Way of the Cross, the recitation of the Rosary, novenas, etc. Because they assist at these in good faith without marring or disturbing the services, their participation in them is tolerated. Not infrequently these advantages have served to bring many non-Catholics into the true fold.

<sup>11</sup> Instr. S. C. S. Off., 20 dec. 1949—*AAS*, XLII (1950), 142.

<sup>12</sup> William Conway, "A Recent Instruction of the Holy Office on Religious Unity"—*The Irish Ecclesiastical Record*, LXXI (1950), 365.

## ARTICLE II — INDULGENCES

Sacramentals and indulgences are not to be confused with each other. An indulgence is a remission before God of temporal punishment due to those sins of which the guilt has already been forgiven. Sacramentals obtain different supernatural aids. But in some instances, besides its proper effects, a sacramental may indirectly produce an effect which ordinarily belongs to the nature of indulgences. This can happen especially if an *opus satisfactorium* is connected with the sacramental, e.g., when one submits himself to the imposition of blessed ashes.<sup>13</sup> In such a case a non-Catholic could obtain some of the ordinary effects of the sacramental; it is doubtful whether he could gain an indulgence from it.

There are articles of devotion which are blessed as sacramentals and to which indulgences are attached. Such are the crucifixes, rosaries, scapulars, etc., to which a priest endowed with the necessary faculties has affixed indulgences. If these are given to non-Catholics and are used with reverence, they will profit by them insofar as they are sacramentals. It is doubtful whether they can gain the indulgences attached to them.

Some indulgences are granted in behalf of the living only, while others may be applied in behalf of the departed souls. Those granted for the living cannot be applied to another living person.<sup>14</sup> The first question is whether non-Catholics can gain indulgences and, second, whether indulgences can be applied to the departed souls of non-Catholics.

A. *Whether Non-Catholics Can Gain Indulgences*

To be able to gain indulgences, the person desirous of gaining them must be baptized, not excommunicated, and a subject of the one granting them.<sup>15</sup> Hence, all those who have not received the baptism of water, as infidels, Jews, and catechumens, are definitely excluded. As to whether heretics and schismatics can gain them, it is a matter of dispute. Because Canon 925, §1 does not exclude them

<sup>13</sup> Prümmer, *Manuale Theologiae Moralis*, III, n. 93.

<sup>14</sup> Canon 930.

<sup>15</sup> Canon 925, §1.

explicitly, Coronata believes there is possibility that they can gain them, if they are in good faith.<sup>16</sup> Vermeersch-Creusen<sup>17</sup> are of the same opinion. Davis notes: "Since all baptized persons are subjects of the Pope, it is possible that a baptized Protestant in good faith might obtain the plenary indulgence at the hour of death by fulfilling the necessary conditions. But he could be required to have the intention of gaining it."<sup>18</sup>

More convincing, however, is the argument held by Prümmer,<sup>19</sup> Fanfani,<sup>20</sup> Seraphinus de Angelis,<sup>21</sup> and McHugh and Callan.<sup>22</sup> These authors maintain indulgences cannot be gained by non-Catholics, precisely because they are not members of the Mystical Body of Christ. In his treatise on "The General Legislation on Indulgences," Hagedorn reiterates Fanfani's argument: To partake of the benefits of indulgences, one must be in a position to partake of those goods which come from the Church as a corporate society, one must be within the corporate union of the Church. And being in no such vantage heretics and schismatics are not subjects of indulgences.<sup>23</sup> Augustine is in disagreement with Davis: "The only capable subject is a baptized Catholic, who is not excommunicated, for a non-Catholic can hardly be styled a *subditus concedentis*."<sup>24</sup>

Furthermore, in order that a baptized person may gain indulgences, he must have at least the general intention of gaining them.<sup>25</sup> It is very unlikely that a non-Catholic would ordinarily have such an intention. In fact, Protestants are wont to spurn the doctrine of indulgences and everything connected with it. Supposing that a non-Catholic is in good faith and probably in the state of

<sup>16</sup> *Institutiones Iuris Canonici*, I, n. 506.

<sup>17</sup> *Epitome Iuris Canonici*, II, n. 214, nota 2.

<sup>18</sup> *Moral and Pastoral Theology*, III, p. 428.

<sup>19</sup> *Manuale Theologiae Moralis*, III, n. 551.

<sup>20</sup> *Manuale Theologiae Moralis*, IV, n. 738.

<sup>21</sup> Seraphinus de Angelis, *De Indulgentiis* (Asti: Libreria Dottrina Cristiana, 1946), n. 52.

<sup>22</sup> *Moral Theology*, I, n. 959.

<sup>23</sup> Hagedorn, Francis Edward, *General Legislation on Indulgences*, The Catholic University of America, Canon Law Studies, n. 22 (Washington, D. C.: The Catholic University of America Press, 1924), p. 84.

<sup>24</sup> *A Commentary on Canon Law*, IV, p. 381.

<sup>25</sup> Cf. Canon 925, §2.

grace, he would still lack the more basic requisite, namely, membership in the Church. As excommunicated and outside the pale of the Catholic Church, a non-Catholic is in no position where he, as a baptized person, can gain indulgences.

### B. Application of Indulgences to Deceased Non-Catholics

Canon 930 reads: No one can gain indulgences and apply them to living persons; but all indulgences granted by the Roman Pontiff are applicable, unless the contrary is evident, to the souls in purgatory.<sup>26</sup> Notice the terminology of the Code is very general, "animabus autem in purgatorio detentis," which allows a wide application.

Chelodi,<sup>27</sup> Coronata,<sup>28</sup> and Augustine<sup>29</sup> hold those who have departed from this life excommunicated (hence, baptized non-Catholics) are deprived of participation in indulgences. According to Augustine: "Indulgences cannot be gained by, nor applied to, excommunicated persons, and no private application is possible because all indulgences flow from the treasury of the Church, over which her public authority has absolute control."

But more tenable is the argument which Cappello advances. He argues indulgences can be extended to the departed excommunicates, precisely because indulgences are applied to the dead *per modum suffragii*.<sup>30</sup> There seems to be no convincing reason to restrict the supplicating efficacy which the indulgences of the Church may have before God in behalf of deceased non-Catholic souls, when the fruits of the Mass, the merits of Christ can be applied and be of great benefit for the same souls.

Granted the question is disputable. Nevertheless, it would be imprudent to discourage the faithful from offering indulgenced prayers privately for deceased non-Catholics, about whose salvation

<sup>26</sup> Canon 930: Nemo indulgentias acquirens potest eas aliis in vita degentibus applicare; animabus autem in purgatorio detentis indulgentiae omnes a Romano Pontifice concessae nisi aliud constet, applicabiles sunt.

<sup>27</sup> Chelodi, Joannes, *Ius Poenale* (Tridentini: Libr. Edit. Tridentum, 1920), n. 37.

<sup>28</sup> *Institutiones Iuris Canonici*, IV, n. 1775.

<sup>29</sup> *A Commentary on Canon Law*, VIII, p. 184.

<sup>30</sup> *De Censuris*, n. 156.

we can entertain some hope. If the Church allows prayers and the fruits of the Mass to be offered privately for their welfare, who are we to constrain the mercy of the Church with regard to indulgences? Does not "animabus autem in purgatorio detentis," include all souls there,—even the souls of deceased non-Catholics?

We need not fear that our prayerful efforts will be spent in vain because the Church has not given us any assurance on the matter. If not as indulgenced, God will at least accept them as simple prayers. But indulgenced prayers benefit the departed souls vastly more than ordinary prayers. Through the former, it is the Church beseeching God and offering out of her corporate treasure, the merits of Christ and the Saints. In the latter, it is mere man offering supernatural prayers more or less perfect. Before God they are unequal in power; that of the Church is more efficacious. Their manner of operation is the same.<sup>31</sup> Indulgenced prayers as well as private prayers, in fact all prayers for the dead, work by way of suffrages or intercession.

### *C. Confraternities*

To enjoy the rights, privileges, indulgences, and other spiritual favors of an association, it is required and sufficient that one be received into the same in accordance with its statutes and not expelled from it.<sup>32</sup> Neither non-Catholics nor those who are members of a condemned sect may become members of a Catholic Confraternity.<sup>33</sup> Those excluded as non-Catholics are the following: the unbaptized and the baptized who are apostates, heretics, or schismatics.<sup>34</sup>

There is a decision of the Holy See on this matter. To an inquiry proposed in 1867 by some American Bishops concerning the admittance of non-Catholics to the Society of St. Vincent de Paul as honorary members, the Sacred Congregation of the Propaganda

<sup>31</sup> Cf. Bouscaren-Ellis, *Canon Law, A Text and Commentary*, p. 380.

<sup>32</sup> Canon 692: Ad fruendum associationis iuribus, privilegiis, indulgentiis, aliisque gratiis spiritualibus, necesse est et sufficit ut quis in eam valide receptus sit, secundum propria associationis statuta et ab ea legitime non expulsus.

<sup>33</sup> Canon 693, §1: Acatolici et damnatae sectae adscripti aut censura notorie irretiti et in genere publici peccatores valide recipi nequeunt.

<sup>34</sup> Abbo-Hannan, *The Sacred Canons*, I, p. 697.

replied: *nihil quidem ob stare quominus etiam ab acatholicis spontaneae eleemosynae recipiantur; verum ut iidem recenseantur inter socios honorarios omnino non expedire.*<sup>35</sup> From the words of this decision we gather they cannot be received as honorary members, let alone as associate ones.<sup>36</sup>

Although rosaries, scapulars, etc., may be given to non-Catholics, they cannot be enrolled in the confraternities of the same. The indulgences ordinarily communicated to the members of these associations are communicable to Catholics alone.

#### D. Purgatorial Societies

Unless before death heretics or schismatics manifest some sign of wanting to enter the Church, the law explicitly states they are to be refused ecclesiastical burial, and consequently the public suffrages of the Church. Any form of public announcement, making the suffrages public, is forbidden.<sup>37</sup> The issuing of the usual certificates of enrollment in the name of the deceased, as such, would be considered a public announcement, and is, hence, forbidden.

There is nothing against enrolling them privately, as long as no certificate is issued and the relatives or friends requesting this favor keep the enrollment a secret. Such participation is permissible, even if the Masses are publicly offered for the members of the society, because the Masses as far as the non-Catholic is concerned, are private. Those who request the enrollment of a non-Catholic friend, should be informed why such enrollment must be private, and whatever benefits are gained therefrom depend upon the acceptance of the same by God.

### ARTICLE III — MISCELLANEOUS QUESTIONS

#### A. Non-Catholic Singers

Non-Catholics are not permitted, at least ordinarily, to sing in our churches at liturgical functions.<sup>38</sup> Since singing is considered

<sup>35</sup> S. C. de Prop. Fide, 19 Sept. 1867—*Coll. S. C. P. F.*, n. 1319.

<sup>36</sup> Vermeersch, *Theologia Moralis*, II, n. 51.

<sup>37</sup> Cf. *supra*, p. 122.

<sup>38</sup> Fanfani, *Manuale Theologiae Moralis*, II, n. 37.

a remote type of active participation,<sup>39</sup> in particular circumstances non-Catholics are permitted to sing in the choir.

When, in 1889, the Holy Office had been asked whether non-Catholics could be permitted to sing in our churches and oratories, because of the scarcity of Catholic singers, it replied that the abuse was to be eliminated as soon as possible, and Catholics should be secured and taught the liturgical chant.<sup>40</sup> Later, in 1906, the same Holy Office, for significant reasons, issued a modified decree, permitting a sisterhood, which was conducting a school in Bulgaria, to have its schismatic pupils sing with them at religious functions in their chapel. The reasons alleged for this permission were: scarcity of Catholics in the place, no danger of scandal, hope of conversions, difficulty of eliminating them, and the good faith of the non-Catholics.<sup>41</sup>

With his usual clarity, Vermeersch points out that non-Catholics, as such or as a distinct group, may not sing in our churches. To have a choir made up of non-Catholics alone or to have them sing as representatives of their sects is absolutely forbidden. It is possible to see how the Church, for weighty reasons, would permit them to sing together with Catholics, *una cum Catholicis*.<sup>42</sup>

Augustine<sup>43</sup> would forbid them to sing liturgical songs, and Beste<sup>44</sup> would exclude them from singing in the sanctuary but not necessarily from the nave of the church. We see no apparent reasons for these distinctions. Davis<sup>45</sup> simply allows non-Catholics to sing in choir if there is no irreverence or scandal. But the above decree of the Holy Office demanded more than the absence of irreverence and scandal. If, in addition to these, such weighty reasons as the fewness of Catholic singers or the hope of conversion are not present, they may not be permitted to sing at our services.

This problem often reappears today with regard to the non-Catholic children enrolled in our parochial schools. If the reasons

<sup>39</sup> Loiano, *Institutiones Theologiae Moralis*, II, n. 56.

<sup>40</sup> S. C. S. Off., 1 maii 1889—*Coll. S. C. P. F.*, n. 1703.

<sup>41</sup> S. C. S. Off., 24 iunii 1906—*Coll. S. C. P. F.*, n. 2227.

<sup>42</sup> *Theologia Moralis*, II, n. 51.

<sup>43</sup> *A Commentary on Canon Law*, VIII, p. 177, note 40.

<sup>44</sup> *Introductio In Codicem*, p. 615.

<sup>45</sup> *Moral and Pastoral Theology*, I, p. 290, note 1.

which prompted the Holy Office to allow schismatic pupils to sing at our services are present, these children may be permitted to sing with Catholics at sacred functions.<sup>46</sup>

It is not advisable to invite a group of singers, e.g., a glee club, a quartet, made up of Catholics and non-Catholics, to sing at our services. Not only would scandal likely ensue because of the non-Catholics participating in our worship, but the Catholic members of such groups would be tempted to go over to sing at non-Catholic services. Because of these dangers it is our opinion that choirs including non-Catholics and Catholics, as the policemen's choir, should not be invited to sing at Catholic services.

### B. *Non-Catholic Organist*

Merkelbach reasons that it is easier to admit a non-Catholic to play the organ at our services than to permit a Catholic to play it at non-Catholic services.<sup>47</sup> No doubt the primary reason for this distinction rests on the fact that participation in non-Catholic worship is intrinsically wrong, while in Catholic worship it is not. There is another reason. The organ is of greater importance in non-Catholic worship than it is in ours. For non-Catholics, music is often an integral part of religious worship. There are sects whose religious services are centered around hymn singing. It follows that the accompaniment of an organ would play a far greater role in non-Catholic worship than in Catholic worship. Hence it would be wrong to view the organist problem in Catholic and non-Catholic worship in the same manner. In non-Catholic worship, it is primarily a question of what is participated *in*; whereas in Catholic worship, it is a question of how remote is the participation. Is it so remote that it ought to be listed under material co-operation?

Vermeersch holds that organ playing in non-Catholic<sup>48</sup> as well as Catholic services<sup>49</sup> is material co-operation. With regard to non-Catholic worship, Father Bancroft rightly judges this opinion as

<sup>46</sup> Gerald Kelly, "Notes on Moral Theology"—*Theological Studies*, XIV (1953), 61.

<sup>47</sup> *Summa Theologiae Moralis*, I, n. 758, nota 2.

<sup>48</sup> *Theologia Moralis*, II, n. 147.

<sup>49</sup> *Op. cit.*, II, n. 50.

singular and exceptional. He shows, by giving an array of distinguished theologians, that the weight of authority is against Vermeersch. To play the organ in non-Catholic worship is commonly held to be tantamount to active participation.<sup>50</sup>

In Catholic worship there may be some basis for Vermeersch to doubt whether the office of an organist is active participation. Here the noted theologian does not stand alone. He has several companions. Cappello doubts that it belongs to active participation.<sup>51</sup> Chelodi also seems to favor this view.<sup>52</sup>

Some definitely prefer to view the office of an organist at Catholic services as active participation in the wide sense. Callan-McHugh teach that it is active participation so remote that it scarcely differs from passive assistance.<sup>53</sup> Loiano also calls it a remote type of active participation.<sup>54</sup> Fanfani lists the organist's office last among those who actively participate in Catholic worship.<sup>55</sup> Others, as Noldin-Schmitt,<sup>56</sup> Prümmer,<sup>57</sup> Merkelbach,<sup>58</sup> and Iorio,<sup>59</sup> although they do not express themselves as to whether it is active or passive participation, nevertheless are more tolerant toward non-Catholics as organists than as singers.

The above mentioned theologians without exception, in virtue of a decree issued by the Holy Office in 1820, permit engaging a non-Catholic as an organist, provided no Catholic is available and all danger of scandal is avoided.<sup>60</sup> By considering the time when this decree was given, we notice that the Church was more tolerant toward non-Catholics as organists than as singers. It was not until 1906 that the Holy Office replied in favor of non-Catholics as singers—and then under significant circumstances.<sup>61</sup>

<sup>50</sup> *Communication in Religious Worship With Non-Catholics*, p. 73.

<sup>51</sup> *Summa Iuris Canonici*, III, n. 514.

<sup>52</sup> *Ius Poenale*, n. 37, nota 2.

<sup>53</sup> *Moral Theology*, I, n. 960.

<sup>54</sup> *Institutiones Theologiae Moralis*, II, n. 56.

<sup>55</sup> *Manuale Theologiae Moralis*, II, n. 37.

<sup>56</sup> *Summa Theologiae Moralis*, II, n. 37.

<sup>57</sup> *Manuale Theologiae Moralis*, I, n. 525.

<sup>58</sup> *Summa Theologiae Moralis*, I, n. 753.

<sup>59</sup> *Theologia Moralis*, I, n. 238, nota 2.

<sup>60</sup> S. C. S. Off., 23 feb. 1820—*Coll. S. C. P. F.*, n. 739.

<sup>61</sup> Cf. *supra*, p. 105.

A pastor would not be justified in employing a non-Catholic as an organist unless circumstances were such that it was impossible or very difficult to obtain a Catholic organist. It may happen, especially in small parishes, that no Catholic organist is available. A non-Catholic could be temporarily employed as long as there is no scandal. The pastor should familiarize the non-Catholic organist somewhat about Catholic music and watch that only sacred Catholic music is played and rendered in a becoming manner.

### C. Processions

The official mind of the Church regarding the participation of non-Catholics in sacred processions can be gathered from two decisions of the Holy Office. Both refer to the solemn procession of the Blessed Sacrament, the most common of the liturgical processions. On February 24, 1752 the Holy Office forbade schismatics to march in solemn processions of the Blessed Sacrament. On the other hand, the same decree tolerated their participation if such course was deemed necessary to prevent the persecution of the one forbidding it.<sup>62</sup> Again, on March 11, 1895 the Sacred Congregation warned not only against their participation in the Corpus Christi Procession, but also against inviting Protestant consuls *ad solemnitates catholicorum*. It suggested that the consul rather substitute a Catholic in his stead to represent the head of the nation at such functions.<sup>63</sup>

When on another occasion the Holy Office was asked whether *torches* and *candles* could be given to non-Catholics who desired to join in a Catholic function, it answered in the negative.<sup>64</sup> In processions there can be no question of passive, much less private participation. The very act of marching makes one an active participant in a procession.

What about the participation of non-Catholics in non-liturgical processions, as the May and October processions in honor of Our Lady? If any of these processions are conducted under the leadership of the clergy, they are not mere parades or civic demonstrations,

<sup>62</sup> *Coll. S. C. P. F.*, n. 384.

<sup>63</sup> *Coll. S. C. P. F.*, n. 1827.

<sup>64</sup> *S. C. S. Off.*, 20 nov. 1850—*Coll. S. C. P. F.*, n. 1053.

but are to be considered as sacred functions.<sup>65</sup> As such they also involve *communicatio in sacris*, if non-Catholics participate in them. Although the obligation to restrict them is not as strict as with liturgical processions, nevertheless non-Catholics are forbidden to join in them because of extrinsic reasons. Their participation might give the semblance of religious unity and be a source of scandal.

May non-Catholic children attending our parochial schools be permitted to participate in these processions? According to Vermeersch, non-Catholic children who frequent our schools should always be excluded from external active participation in our services.<sup>66</sup> That this exclusion is to be observed with regard to the sacraments and their participation in the more proximate acts of Catholic worship, there can be no doubt. Must they be excluded from the more remote phases of religious participation? Ordinarily, yes. But, as we have noted in the problem of non-Catholic children's singing at our services, the Holy Office permitted it, provided certain conditions were verified.<sup>67</sup> When there is hope of conversion, the children are in good faith, and there is no danger of scandal, it would not be wrong to allow non-Catholic children to march in religious processions. However, care should be taken not to make their participation conspicuous by giving them any of the prominent roles.

#### *D. Banners and Emblems*

The Special Commission for the interpretation of the Code forbade displaying in church banners or emblems representing doctrines or societies inimical to our religion.<sup>68</sup> Such banners or emblems may not be borne in sacred processions.

<sup>65</sup> Cf. Ayrinhac, *Administrative Legislation in the New Code of Canon Law*, n. 136; Augustine, *A Commentary on Canon Law*, VI, p. 256.

<sup>66</sup> *Theologia Moralis*, II, n. 51.

<sup>67</sup> Cf. *supra*, p. 105.

<sup>68</sup> S. C. Rituum Instr., 15 dec., 1922—AAS, XVI (1924), 171.

## E. Ringing of Church Bells for Non-Catholics

Church bells, because they are either blessed or consecrated, are sacramentals. As sacred objects they should ordinarily be rung for religious purposes only. The Church makes use of them to call her faithful to religious services, to announce the death or funeral of one of its members, and to invite the faithful to pray for the dead. Even though church bells are only remotely connected with divine services, they may not be rung in favor of non-Catholics. Noldin-Schmitt reason that those who are refused ecclesiastical burial should be denied this favor also. Furthermore, since church bells may not be used for profane purposes, *a fortiori* they may not be used to honor heretical functions. But if such a refusal would cause great damage and inconveniences, it may be permitted.<sup>69</sup>

Coronata allows the bells to be rung at the funeral of the non-Catholic ruler of the land whenever it is the custom of the place.<sup>70</sup> This is in accordance with an Instruction of the Holy Office which tolerated the ringing of the bells while the cortege of the non-Catholic Sovereign passed by the church.<sup>71</sup>

## F. Non-Catholics and the Use of a Catholic Church

The Church desires a house of worship to be exclusively set aside for her own worship, so much so that the Sacred Penitentiary permitted Catholics to contribute toward the construction of a Protestant church, because such action eventually meant that Catholics would have the exclusive use of a church now shared with non-Catholics.<sup>72</sup>

A decree issued by the Holy Office as early as May 10, 1753

<sup>69</sup> *Summa Theologiae Moralis*, II, n. 39.

<sup>70</sup> *Institutiones Iuris Canonici*, II, n. 836.

<sup>71</sup> S. C. S. Off., 1 aug. 1900—*Coll. S. C. P. F.*, n. 2089.

<sup>72</sup> S. Paenitentiaria (a. 1822): "An catholicis liceat pecuniam contribuere pro aedificando templo haeretico."—Resp. "Affirmative, sed tantum ad se suaque templa ab incommoda illa ac scandalosa cum Protestantibus simultaneitate liberandum." Cited by Vermeersch, *Theologia Moralis*, II, n. 147, nota 1.

forbade non-Catholics to conduct their services in our churches.<sup>73</sup> For grave reasons, however, the use of a common church by Catholics and non-Catholics may be tolerated, provided the sacred functions are celebrated in succession. As Fanfani discerns, to have religious services in succession in the same church is not properly communicating actively and immediately in worship; it is rather using the same place to perform sacred functions. An example is found in the church of the Holy Sepulchre in Jerusalem, wherein Catholics and non-Catholics celebrate religious rites.<sup>74</sup>

If the Protestant church of the village were destroyed by fire, it would run against the general principle of *communicatio in sacris* to allow them the use of our church. It is highly questionable whether the parish hall could be offered as an alternative, because this at least would smack of *cooperatio* in a false worship. Rather let them find some public building, such as a school or theater, for their services.

Where no Catholic church or chapel is available, as in military camps, hospitals, prisons, etc., Catholic services may be conducted in a building or hall used by both Catholics and non-Catholics. On June 5, 1889, the Holy Office permitted Catholic services to be held in a military chapel destined for the use of Catholics and non-Catholics, provided they were had alternately at different hours. But it warned the Vicar Apostolic to have the government erect a chapel for the sole use of the Catholics, and if the government refused, alms should be sought for elsewhere to build a chapel as soon as possible.<sup>75</sup>

Catholic chaplains of the Armed Forces received faculties "to celebrate all the divine offices and ecclesiastical functions in chapels assigned to the armed forces, whether or not those chapels have been reserved exclusively to Catholics, unless prevented by the rubrics."<sup>76</sup> Because these buildings or chapels belong to no particular religious group, the Church tolerates the use of them. They are

<sup>73</sup> *Coll. S. C. P. F.*, n. 389.

<sup>74</sup> *Manuale Theologiae Moralis*, II, n. 40.

<sup>75</sup> *Coll. S. C. P. F.*, n. 1707.

<sup>76</sup> *Facultates Castrenses*, p. 19—*AER*, CVIII (1942), 30.

simply public buildings. Nevertheless, holding services in them is beset with extrinsic circumstances which are far from desirable. This is altogether foreign to the mind of the Church. Necessity forces the Church to conduct her services in a place promiscuously used for worship.<sup>77</sup>

\*   \*   \*   \*

Because priests are the custodians of Catholic worship, they have the moral obligation of preventing unlawful participation of non-Catholics in Catholic worship. Their primary concern is the sacraments, which by their own nature and by reason of their institution are the most important sacra of the Catholic Church. A priest is obliged *sub mortali* to refuse the sacraments to non-Catholics who are outside the danger of death, and will not reject their errors and become reconciled with the Church. On the other hand, such non-Catholics are also bound under the pain of committing a grievous sacrilege to abstain from receiving the sacraments. Likewise, a priest would commit a serious violation if he failed to exclude a non-Catholic from acting as a sponsor at Baptism.

Not all sins of *communicatio in sacris* have the malice of a grave sacrilege. Sins committed by the unlawful reception of the sacramentals, or the unlawful participation in the various modes of worship, admit parvity of matter. A priest would not be obliged *cum gravi incommodo* to exclude a non-Catholic from the public reception of blessed ashes, candles or palms. If he failed to take precautions of preventing this abuse from occurring in the future, he would be guilty of at least a venial sin.

For non-Catholics to sing or play the organ at Catholic worship at an individual occasion without a just reason would be a venial sin. However, a pastor might be guilty of a grave sin if he allowed such active participation to take place *per modum habitus* without any justifying reason.

It is not feasible to give a list of practical conclusions. This dissertation contains so many that to give a summary of them would lead to extensive repetition. The circumstances which affect par-

<sup>77</sup> Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 102.

ticipation are so many and vary so greatly they also would necessitate giving a lengthy list of conclusions.

In concluding, we wish to remind the reader that the general principle which governs the participation of non-Catholics in Catholic worship is wider and more readily admits parvity of matter than the general principle which regulates the participation of Catholics in non-Catholic services. The passive participation of non-Catholics at our worship is not only tolerated, it is frequently encouraged. As for active participation, it is not entirely forbidden. Certain modes of active participation, as singing in the choir and organ playing, are possible if justifiable reasons are present and the dangers of indifferentism and scandal are removed.



## ABBREVIATIONS

AAS—*Acta Apostolicae Sedis.*

ASS—*Acta Sanctae Sedis.*

AER—*American Ecclesiastical Review.*

Coll. S. C. P. F.—*Collectanea Sacrae Congregationis de Propaganda Fide.*

CSEL—*Corpus Scriptorum Ecclesiasticorum Latinorum.*

DB—Denziger-Bannwart-Umberg, *Enchiridion Symbolorum Definitionum et Declarationum De Rebus Fidei Et Morum.*

Fontes—*Codicis Iuris Canonici Fontes*, cura . . . Gasparri editi.

Mansi—*Sacrorum Conciliorum Nova et Amplissima Collectio.*

PG—Migne, *Patrologia, Series Graeca.*

PL—Migne, *Patrologia, Series Latina.*

S. C. P. F.—*Sacra Congregatio de Propaganda Fide.*

S. C. Rit.—*Sacra Congregatio Rituum.*

S. C. S. Off.—*Sacra Congregatio Sancti Officii.*



## BIBLIOGRAPHY

### SOURCES

- Acta Apostolicae Sedis, Commentarium Officiale*, Romae, 1909—.
- Acta et Decreta Concilii Plenarii Baltimorensis Secundi, A. D. 1868*, Baltimore, Excudebat Joannes Murphy, 1868.
- Acta Sanctae Sedis*, 41 vols., Romae, 1865-1908.
- Bouscaren, T. L., *The Canon Law Digest*, Vol. I (1934), Vol. II (1943), Vol. III (1954), Bruce, Milwaukee.
- Catechismus Ex Decreto SS. Concilii Tridentini Ad Parochos, Pii V, Pont. Max.*, Padua, Ex Typis Seminarii Patavini, 1930.
- Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus*, Romae, Typis Polyglottis Vaticanis, 1917.
- Codicis Iuris Canonici Fontes*, cura Eññi Petri Card. Gasparri editi, 9 vols., Romae (postea Civitate Vaticana), Typis Polyglottis Vaticanis, 1923-1939. (Vols. VII-IX ed. cura et studio Eññi Iustiniani Card. Seredi.)
- Collectanea S. Congregationis de Propaganda Fide*, 2 vols., Romae, Typographia Polyglotta S.C. de Propaganda Fide, 1907. (Vol. I, nn. 1-1299; Vol. II, nn. 1300-2317.)
- Collectio Rituum Ad Instar Appendicis Ritualis Romani Pro Diocesibus Statum Foederatorum Americae Septentrionalis*, Ex Typographia Bruce, Milwaukee, 1954.
- Corpus Scriptorum Ecclesiasticorum Latinorum*, Vindobonae, 1866—.
- Enchiridion Symbolorum, Definitionum, et Declarationum de Rebus Fidei et Morum*, Denzinger-Bannwart-Umberg, editio 24, Barcelona, Editorial Herder, 1946.
- Mansi, Joannes, *Sacrorum Conciliorum Nova et Amplissima Collectio*, 53 vols. in 59, Florentiae, Parisiis, Arnheim et Lipsiae, 1901-1927.
- Migne, Jacques, P., *Patrologiae Cursus Completus, Series Graeca*, 161 vols., Parisiis, 1856-1866.
- , *Patrologiae Cursus Completus, Series Latina*, 221 vols., Parisiis, 1844-1864.
- Missale Romanum, Ex Decreto Sacrosancti Concilii Tridentini Restitutum, S. Pii V Pontificis Maximi Jussu Editum, Aliorum Pontificum Cura Recognitum, A Pio X Reformatum, Et Benedicti XV Auctoritate Vulgatum*, Novi Eboraci, Benziger Bros., 1945.
- Ordo Hebdomadae Sanctae Instauratus, Juxta Editionem Typicam*, Romae, Desclée et Socii, 1956.
- Rituale Romanum, Pauli V Pontificis Maximi Jussu Editum Aliorumque Pontificum Cura Recognitum atque Auctoritate Pii Papae XI, Ad Norman Codicis Iuris Canonici Accommodatum*, Novi Eboraci, Benziger, 1944.
- Regatillo, E. F., *Interpretatio et Iurisprudentia Codicis Iuris Canonici*, Santander, "Sal Terrae," 1949.

## REFERENCE WORKS

- Abbo, John A.,—Hannan, Jerome D., *The Sacred Canons*, 2 vols., St. Louis, Herder, 1952.
- Aertnys, J.—Damen, C. A., *Theologia Moralis secundum doctrinam S. Alphonsi de Ligorio, Doct. Ecclesiae*, 16. ed., 2 vols. Romae, Marietti, 1950.
- Alphonsus M. de Liguori, St., *Theologia Moralis*, ed. L. Gaudè, 4 vols., Romae, 1905-1912.
- Arendt, G., *De Sacramentalibus-Disquisitio Scholastico-Dogmatica*, Romae, 1900.
- Arregui, Antonio M., *Summarium Theologiae Moralis*, Romae, Deposito Libri Della Pont. Università Gregoriana, 1937.
- Ayrinhac, H. A., *Administrative Legislation in the New Code of Canon Law*, New York, Longmans, Green and Co., 1930.
- , *Legislation on the Sacraments in the New Code of Canon Law*, New York, Longmans, Green and Co., 1928.
- [Bachofen], Charles Augustine, *A Commentary on the New Code of Canon Law*, 8 vols., St. Louis, Herder, 1918-1924. Vol. IV, 2. ed., 1921, Vol. VIII, 2. ed., 1924.
- Bancroft, John R., *Communication in Religious Worship with Non-Catholics*, The Catholic University of America Studies in Sacred Theology, n. 75, Washington, D. C.: The Catholic University of America Press, 1943.
- Berutti, Christophorus, *Institutiones Iuris Canonici*, Vol. IV, Taurini-Romae, ex Officina Marietti, 1940.
- Beste, Udalricus, *Introductio in Codicem*, 3. ed., Collegeville, Minn., St. John's Abbey Press, 1946.
- Billot, Ludovicus, *De Ecclesia Christi*, 4. ed., Tomus Prior, Romae, Apud Aedes Universitatis Gregorianae, 1921.
- , *De Ecclesiae Sacramentis*, 6. ed., 2 vols., Romae, Apud Aedes Universitatis Gregorianae, 1922-1924.
- Billuart, C. R., *Theologia Moralis Juxta Mentem D. Thomae*, Tom. IV, De Religio., Parisiis, Apud Victorem Lecoffre, 1895.
- Blat, Albertus, *Commentarium Textus Codicis Iuris Canonici*, Liber III, Romae, Ex Typographia Pontificia In Instituto Pii IX, 1923.
- Bouscaren, T. L.—Ellis, A. C., *Canon Law, A Text and Commentary*, Milwaukee, Bruce, 1951.
- Boyer, Carolus, *Tractatus De Sacramento Paenitentiae et De Extrema Unctione*, Romae, Apud Aedes Pont. Universitatis Gregorianae, 1942.
- Brunsmann, John—Preuss, Arthur, *A Handbook of Fundamental Theology*, Vol. III, St. Louis, Mo.: B. Herder Book Co., 1931.
- Callewaert, C., *Institutiones Liturgicae*, Tractatus Primus, 3. ed., Brugis, Apud Carolum Beyaert, 1933.
- Cappello, Felix M., *Summa Iuris Canonici*, 4. ed., 3 vols., Romae, Apud Aedes Universitatis Gregorianae, 1940.

- , *Tractatus Canonico-Moralis De Censuris Iuxta Codicem Iuris Canonici*, Romae, Marietti, 1950.
- , *Tractatus Canonico-Moralis De Sacramentis*, 3 vols. in 6, Romae, Marietti, 1935-1945.
- Casui, The, Vol. III, New York, Joseph F. Wagner, 1910.
- Cerato, Prosdocius, *Censurae Vigentes*, 2. ed., Padua, 1921.
- Chelodi, Joannes, *Ius Poenale*, Tridenti, Libr. Edit. Tridentum, 1920.
- Claeys Bouuert, F. et Simenon, G., *Manuale Iuris Canonici*, Vol. II, Gandae et Leodii, 1931.
- Coronata, Matthaeus Conte A., *Institutiones Iuris Canonici*, Vol. IV, Romae, Marietti, 1939.
- , *Institutiones Iuris Canonici, De Sacramentis*, Vol. I (1951), Vol. III (1947), Romae, Marietti.
- D'Annibale, J., *Summula Theologiae Moralis*, Vol. I, Romae, Desclée, 1908.
- Davis, Henry, *Moral and Pastoral Theology*, 4. ed., 4 vols., London, Sheed and Ward, 1943.
- De la Taille, M., *The Mystery of Faith*, trans. by Joseph Carrol, Book II, London, Sheed and Ward, 1950.
- De Lugo, Joannes, *Disputationes Scholasticae et Morales*, editio nova, 8 vols., Parisiis, Apud Ludovicum Vives, 1868-1869.
- Doronzo, Emmanuel, *De Eucharistia*, Vol. II, Milwaukee, Bruce, 1948.
- Elbel, Benjamin, *Theologia Moralis*, Vol. III, Paderbornae, Schroeder, 1892.
- Fanfani, Ludovicus, *Manuale Theorico-Practicum Theologiae Moralis Ad Mentem D. Thomae*, 4 vols., Romae, Libreria Ferrari, 1950-1951.
- Ferreres, Joannes B., *Compendium Theologiae Moralis*, 14. ed., 2 vols., Barcinone, Eugenius Subirana, 1928.
- , *Institutiones Canonicae*, Vol. I, Barcinone, Eugenius Subirana, 1917.
- Galtier, Paulus, *De Paenitentiae Tractatus Dogmatico-Historicus*, Parisiis, Apud Gabriel Beauchesne, 1931.
- Gasparri, P., *Tractatus Canonici de Matrimonio*, 2 vols., Parisiis, Officina Delhomme et Brigue, 1900.
- , *Tractatus Canonici de Sanctissima Eucharistia*, 2 vols., Parisiis, Delhomme et Brigue, 1897.
- Genicot, Eduardus, *Theologiae Moralis Institutiones*, 5. ed., 2 vols., Lovanii, Typis Et Sumptibus Polleunis Et Ceuterick, 1905.
- Genicot, E.—Salsmans, I., *Casus Conscientiae*, 8. ed., Bruxellis, L'Edition Universelle, 1947.
- , *Institutiones Theologiae Moralis*, 17. ed., 2 vols., Bruxellis, L'Edition Universelle, 1951.
- Gerster, Thomas, *Familia Veteris Testamenti*, Taurini, Marietti, 1820.
- Gury, Joannes, *Casus Conscientiae*, Ratisbonae, Manz, 1865.
- , *Compendium Theologiae Moralis*, Editio in Germania Quarta, Ratisbonae: Manz, 1868.

- Hagedorn, Francis E., *General Legislation on Indulgences*, The Catholic University of American Canon Law Studies, n. 22, Washington, D. C.: The Catholic University of America Press, 1924.
- Heinisch, Paul, *History of the Old Testament*, trans. by William Heidt, Collegeville, Minn., The Liturgical Press, 1952.
- Hefele, Charles J., *A History of The Christian Councils*, trans. by William Clark, Vol. I, Edinburgh, T. and T. Clark, 1871.
- Herve, J. M., *Manuale Theologiae Dogmaticae*, Vol. IV, Parisiis, Apud Berche Et Pagis, 1952.
- Hyland, Francis E., *Excommunication, Its Nature, Historical Development and Effects*, The Catholic University of America Canon Law Studies, n. 49, Washington, D. C.: The Catholic University of America Press, 1928.
- Iorio, T. A., *Theologia Moralis*, 3. ed., 3 vols., Neapoli, M. D'Auria, 1947.
- Jone, Heribert, *Moral Theology*, translated by Urban Adelman, Westminster, Md., Newman Bookshop, 1945.
- Kenrick, Franciscus, *Theologia Moralis*, 2. ed., 2 vols., Baltimorae, Murphy, 1866.
- Kerin, Charles, *The Privation of Christian Burial*, The Catholic University of America Canon Law Studies, n. 136, Washington, D. C.: The Catholic University of America Press, 1941.
- Kern, Joseph, *De Sacramento Extremae Unctionis Tractatus Dogmaticus*, Ratisbonae, Pustet, 1907.
- Kilker, Adrian J., *Extreme Unction*, St. Louis, Herder, 1927.
- King, James Ignatius, *The Administration of the Sacraments to the Dying Non-Catholics*, The Catholic University of America Canon Law Studies, n. 23, Washington, D. C.: The Catholic University of America Press, 1924.
- La Croix, Claudius, *Theologia Moralis*, 2 tomes in one vol., Coloniae, ex officina Neotherianiana, 1729.
- Laymann, Paulus, *Theologia Moralis*, 2 tomes, Bambergae, Impensis Joannis Arnoldi Cholini, 1669.
- Lehmkuhl, A., *Theologia Moralis*, 12. ed., 2 vols., Friburgi Brisgoviae, Herder, 1914.
- Loiano, Seraphinus A., *Institutiones Theologiae Moralis*, Vol. II, Taurini, Marietti, 1935.
- MacEvilly, John, *An Exposition of the Epistles of St. Paul and of the Catholic Epistles*, 3. ed., 2 vols., Dublin, W. B. Kelly, 1875.
- Marc, Clemens—Gestermann, F. X., *Institutiones Morales Alphonsianae*, 19. ed., 2 vols., Lugduni, Vitte, 1933.
- Mausbach, Joseph, *Catholic Moral Teaching and Its Antagonists*, trans. by A. M. Buchanan, New York, Joseph F. Wagner, 1914.
- McHugh, John A.—Callan, Charles J., *Moral Theology, A Complete Course*, 2 vols., New York, Joseph F. Wagner, 1929-1930.
- Merkelbach, Benedictus Henricus, *Summa Theologiae Moralis ad Mentem D. Thomae et ad Norman Iuris Novi*, 3. ed., 3 vols., Parisiis, Typis Desclée de Brauer et Soc., 1938-1939.

- Mersch, Emile, *The Theology of the Mystical Body*, trans. by Cyril Vollert, St. Louis, Herder, 1951.
- Michonneau, Abbe, *Revolution In A City Parish*, Westminster, Md., Newman, 1950.
- Noldin, H., *Summa Theologiae Moralis*, 11. ed., Vol. III, Oeniponte Lipsiae, Sumptibus et Typis Feliciani Rauch, 1914.
- Noldin, H.—Schmitt, A.—Heinzel, G., *Summa Theologiae Moralis*, 30. ed., 3 vols., Oeniponte Lipsiae, Sumptibus et Typis Feliciani Rauch, 1952.
- Ojetti, Benedictus, *Synopsis Rerum Moralium et Iuris Canonici*, 2 vols. in one, Prati, Ex Officina Libraria Giachetti, Filii et Soc., 1904.
- Piscetta, A.—Gennaro, A., *Elementa Theologiae Moralis*, 7 vols., Torino, Societa Editrice Internazionale, 1941-1943.
- Pistoni, Josephus, *De Confirmatione a Ministro Extraordinario Conferenda*, Città del Vaticano, Libreria Editrice Vaticana, 1947.
- Prat, Ferdinand, *The Theology of St. Paul*, trans. by John L. Stoddard from the 11th French edition, 2 vols., London, Burns Oates and Washbourne, 1933.
- Prümmer, Dominicus, *Manuale Theologiae Moralis*, 8. ed., 3 vols., Friburgi Brisgoviae, Herder and Co., 1935.
- Ramstein, Matthew, *A Manual of Canon Law*, Hoboken, N. J., Terminal Printing and Publishing Co., 1948.
- Regatillo, Eduardus F., *Ius Sacramentarium*, Santander, Sal Terrae, 1949.
- Regatillo, E. F.—Zalba, M., *Theologiae Moralis Summa*, 3 vols., Matriti, La Editorial Catolica, S. A., 1952.
- Reuter, Joannes, *Neo-Confessarius*, Ratisbonae, Manz, 1870.
- Sabetti, A.—Barrett, T., *Compendium Theologiae Moralis*, 34. ed., New York, Frederick Pustet Co., 1939.
- Salmanticenses, *Cursus Theologiae Moralis*, 6 vols., Venetiis, Apud Nicolaum Pezzana, 1728.
- , *Cursus Theologicus*, nova ed., 20 vols., Parisiis, Palme, 1879.
- Schieler, C.—Heuser, H., *Theory and Practice of the Confessional*, New York, Benziger, 1906.
- Seraphinus de Angelis, *De Indulgentiis*, Asti, Libreria Dottrina Cristiana, 1946.
- Slater, Thomas, *A Manual of Moral Theology*, 5. ed., 2 vols., London, Burns Oates and Washbourne, 1925.
- Smith, S. B., *Elements of Ecclesiastical Law*, Vol. III, New York, Benziger, 1888.
- Suarez, Franciscus, *Opera Omnia*, ed. Carolus Berton, 28 vols., Parisiis, Vivès, 1856-1876.
- Szal, Ignatius J., *The Communication of Catholics with Schismatics*, The Catholic University of America Canon Law Studies, n. 264, Washington, D. C.: The Catholic University of America Press, 1948.
- Tanquary, Ad., *Synopsis Theologiae Moralis Et Pastoralis*, 7. ed., Vol. II, Tornaci, Desclée et Socii, 1922.

- Thomas Aquinas, St., *Opera Omnia*, 25 vols., Secundum Impressionem Petri Fiacadori, Parmae, 1852-1873, Photolithographice Reimpressa, New York, Musurgia Publishers, 1948-1950.
- Van Noort, G., *Tractatus De Ecclesia Christi*, 4. ed., Bussum In Hollandia, 1920.
- Vasquez, G., *Opera Omnia*, novissima editio, 9 vols. in 10, Lugduni, Sumptibus Jacobi Cradon, 1631.
- Vermeersch, A., *Theologia Moralis, Principia-Responsa-Consilia*, 3 tomes; Tom. I, Romae, Pont. Univer. Gregoriana, 1933; Tom. II, Brugis, Firme Charles Beyart, 1928; Tom. III, Brugis, Firme Charles Beyart, 1923.
- Vermeersch, A.—Creusen, J., *Epitome Iuris Canonici*, 3 tomes, Mechliniae-Romae, H. Dessain, 1934-1937; Tom. I, 6 ed., 1937; Tom. II, 5 ed., 1934; Tom. III, 5 ed., 1936.
- Wernz, Franciscus X.—Vidal, Petrus, *Ius Canonicum ad Codicis Normam Extractum*, Tom. VII, Romae, Apud Aedes Universitatis Gregorianae, 1937.
- Wouters, Ludovicus, *Manuale Theologiae Moralis*, 2 vols., Brugis, Carolus Beyart, 1932-1933.
- Woywod, Stanislaus—Smith, Callistus, *A Practical Commentary On The Code of Canon Law*, First Printing of Combined Volumes 1 & 2, New York City, Joseph F. Wagner, 1952.

## PRINCIPAL ARTICLES

- Bock, J. P., "Communicatio in divinis cum schismaticis"—*Theologisch-practische Quartalschrift*, LXVIII (1915), 105-115.
- Bouscaren, T. Lincoln, "Co-operation with Non-Catholics"—*Theological Studies*, III (1942), 475-512.
- Connell, Francis J., "Communication With Non-Catholics In Sacred Rites"—*The American Ecclesiastical Review*, CLI (1944), 176-188.
- Danagher, John J., "Administration Of The Sacraments To Heretics And Schismatics"—*The Jurist*, XIII (1953), 357-381.
- King, James, "What Can A Priest Do For A Dying Protestant"—*The American Ecclesiastical Review*, LXVII (1922), 444-466.
- Kramer, Herbert G., "The Administration Of The Sacramentals to Non-Catholics"—*The American Ecclesiastical Review*, LXXXV, 39-47.
- Mahoney, Edward J., "Churching A Non-Catholic"—*The Clergy Review*, IV (1932), 338-340; "Confirmation Of A Non-Catholic"—*Ibidem*, XXXI (1949), 338-341.
- McCarthy, J., "The Participation of Non-Catholics in Catholic Ceremonies"—*The Irish Ecclesiastical Record*, LXXVI (1951), 414-416.
- Pruemmer, Dominic M., "Conditional Administration Of Sacraments To Dying Non-Catholics"—*The Homiletic and Pastoral Review*, XXX (1929), 234-241.
- Umberg, Ioannes B., "Quo Iure Haereticis et Schismaticis Sacramenta Sint Deneganda"—*Periodica de Re Canonica, Morali, Liturgica*, XVIII (1929), 97-123.

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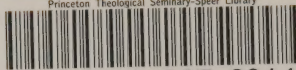
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